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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1882.

No. ~~889~~.108

JOHNSON HAGOOD, COMPTROLLER GENERAL OF THE STATE OF SOUTH CAROLINA; R. S. PORCHER, COUNTY TREASURER OF OCONEE COUNTY; AND SAMUEL E. MOORE, COUNTY TREASURER OF ANDERSON COUNTY, APPELLANTS,

vs.

JOHN P. SOUTHERN AND JAMES P. LOW, ASSIGNEES OF THE BLUE RIDGE RAILWAY COMPANY IN SOUTH CAROLINA, A BANKRUPT.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF SOUTH CAROLINA.

FILED OCTOBER 13, 1882.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1884.

No. 380.

JOHNSON HAGOOD, COMPTROLLER GENERAL OF THE STATE OF SOUTH CAROLINA; R. S. PORCHER, COUNTY TREASURER OF OCONEE COUNTY; AND SAMUEL E. MOORE, COUNTY TREASURER OF ANDERSON COUNTY, APPELLANTS,

vs.

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1 THE UNITED STATES OF AMERICA, *District of South Carolina,* } *To wit:*

At a circuit court of the United States, for the fourth circuit, in and for the district of South Carolina, begun and holden at Charleston, in the district aforesaid, on the first Monday in April, 1881, before the Honorable Hugh L. Bond and the Honorable George S. Bryan, judges of the said United States for the district of South Carolina, holding said circuit court according to the form of the act of Congress in such case made and provided, the following proceedings were had:

And on the 10th day of April, A. D. 1879, came into court the complainants, by their solicitor, Thomas S. Cavender, and filed the following opinion; which opinion is in the words and tenor following:

Opinion.

2 Supreme Court of the United States. October Term, 1878.

JOHN P. SOUTHERN *et al.*, Assignees, &c., Appellants, *vs.* JOHNSON HAGOOD, Comptroller General, *et al.* } No. 27.

Appeal from the circuit court of the United States for the district of South Carolina.

Mr. Chief Justice WAITE delivered the opinion of the court:

This record shows clearly that the case was heard and decided below upon testimony which is not before us. The decree of dismissal is based entirely upon a finding that the complainants were concluded by some judgment in a State court "to which Mr. Wesley was a party." There is nothing here to support such a finding. In fact, no testimony whatever has been sent up. Neither is the case in a condition to be heard understandingly upon the important constitutional questions which have been argued. It comes up on bill, answer, and replication alone. There is nothing to show the form of the "revenue bond scrip," which is the subject-matter of the controversy, and we have not a description of it even. Under these circumstances it is apparent that the case has not been prepared by either party with a view to the presentation of these questions, and we are therefore unwilling to enter upon their consideration on this appeal.

The decree of the circuit court is reversed, with costs, upon the sole ground that the evidence which has been sent here fails to support the finding upon which the bill was dismissed; and the cause is remanded for a further hearing, with power in the circuit court to allow such amendments to the findings and such further proof as it shall be advised may be necessary for the proper presentation of the questions to be decided.

D. W. MIDDLETON,
C. S. C. U. S.

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D. W. MIDDLETON,
C. S. C. U. S.

And on the 10th day of April, A. D. 1879, came into court the

complainants, by their solicitor, Thomas S. Cavender, and obtained the following order; which order is in the words and tenor following:

Order.

3 UNITED STATES OF AMERICA,
Fourth Circuit, District of South Carolina:

In the Circuit Court. In Equity.

JOHN P. SOUTHERN *et al.*, Assignees, etc., Complainants,
vs.
JOHNSON HAGOOD, Comptroller General, *et al.*, Defendants.

On hearing the mandate of the Supreme Court of the United States in the above-entitled cause, and on motion of Thomas S. Cavender, complainants' solicitor—

It is ordered that the decree of this court heretofore made be reversed, with costs, and that the complainants have leave, on or before the rules' day in May next, to make such amendments to their bill of complainant as may be necessary for the proper presentation of the questions to be decided; and also that they do file with the clerk of this court a copy of their amended bill of complaint for each of the defendants.

It is further ordered that the defendants, on or before the rules' day in June next, do file their plea, answer, or demurrer to the said amended bill of complaint.

It is further ordered that the clerk of this court do tax the costs heretofore accrued in this action.

HUGH L. BOND.

April 10, 1879.

Be it remembered that heretofore, to wit, on the 5th day of May, in the year of our Lord one thousand eight hundred and seventy-nine, the said John P. Southern and James P. Low, assignees of the Blue Ridge Railroad Company, bankrupts, impleaded the said Johnson Hagood, comptroller general of the State of South
4 Carolina; R. S. Porcher, county treasurer of Oconee county in the said State, and Samuel E. Moore, county treasurer of Anderson county, in the said State, in a bill of complaint for relief and injunction, as follows:

Bill.

UNITED STATES OF AMERICA,
Fourth Circuit, District of South Carolina:

To the honorable the judges of the circuit court of the United States for the district of South Carolina:

John P. Southern and James P. Low, assignees in bankruptcy of the Blue Ridge Railroad Company, in South Carolina, bring this their bill of complaint against Johnson Hagood,
5 comptroller general of the State of South Carolina; R. S. Porcher, county treasurer of Oconee county in the said State,

and Samuel E. Moore, county treasurer of Anderson county in the said State.

And thereupon your orators complain and say:

I. The Blue Ridge Railroad Company in South Carolina, a corporation created by the laws of South Carolina, was adjudged a bankrupt by the district court of South Carolina on the twenty-second day of April, 1873, and subsequently, viz., on the sixteenth day of July, 1873, your orators with one George W. Williams were appointed by the said court assignees in bankruptcy of the said corporation; and the said George W. Williams, by an order of the said court, has since been discharged as one of such assignees.

II. At the time at which it was so adjudicated a bankrupt the said Blue Ridge Railroad Company in South Carolina was the holder and owner of certain obligations of the State of South Carolina, in the shape of treasury certificates of indebtedness, known as revenue bond scrip of the State of South Carolina, to the amount of $1,005,715.33, of which revenue bond scrip your orators are now the holders and owners by virtue of their office of assignees of the said corporation, $10,845.33 thereof by absolute title, and the remaining $994,870 thereof by equitable title or right of redemption after paying Edward B. Wesley or his assigns the sum of $326,925, which the said Wesley advanced in the latter part of March, 1872, to enable said company to take up and surrender, under the act of March 2, 1872, $2,485,000 of the bonds of the said company, guaranteed by the State of South Carolina; and after also paying to the said Wesley $18,000 advanced by him to the said company to enable it to take up $30,000 of its bonds guaranteed by the State of Tennessee; and after also paying certain bond creditors to the amount of $135,000, decreed to be paid out of the surplus of said $994,870 of said scrip in the hands of said Wesley. All of said sums for which the said $994,870 of revenue bond scrip is pledged bear lawful interest per annum, and which revenue bond scrip, after paying the advances and pledges aforesaid, your orators as such assignees are entitled to as aforesaid.

6 III. The nature of the said revenue bond scrip and your orators' rights as holders and owners thereof will appear from the following facts: The General Assembly of South Carolina, by an act passed September 13, 1868, and entitled "An act to authorize additional aid to the Blue Ridge Railroad Company in South Carolina," authorized and directed the comptroller general of the said State to endorse on certain contracts or bonds of the said company to the amount of four millions of dollars; that the faith and funds of the State of South Carolina were pledged to the faithful performance of the said contracts, as respects the punctual payment of both the principal and interest, according to the terms of the said contracts; and the comptroller general so endorsed four millions of bonds of the said company accordingly. A proviso in the said act, that the said bonds or any part thereof should not be used unless upon certain conditions therein expressed, was, by a subsequent act of the General Assembly, passed March 6, 1871, and entitled "An act to promote the consolidation of the Greenville and Columbia Railroad

Company and the Blue Ridge Railroad Company," repealed; and thereupon the said bonds so endorsed became in the hands of the said company applicable to its corporate purposes without restriction.

IV. The said company issued the whole amount of the said bonds for its corporate purposes, and the said bonds passed into the hands of purchasers for value, and the State of South Carolina thus by reason of its guaranty of the said bonds became indebted to the holders thereof in the sum of four millions of dollars.

V. The State of South Carolina being thus liable for this debt of four millions of dollars, and being desirous of making a favorable arrangement thereof with its creditors, and being unable to do so except through the agency and with the aid of the said company, the General Assembly, in pursuance of an understanding with the said company, passed an act March 2, 1872, entitled "An act to relieve the State of South Carolina of all liability for its guaranty of the bonds of the Blue Ridge Railroad Company, by providing for the securing and destruction of the same," whereby, after providing by the first section thereof for the delivery to the State treasurer of all the bonds of the said company, endorsed and guaranteed by the
7 State of South Carolina, which were then in the possession of the financial agent, and for the cancellation of the same, it was further provided by the second section thereof that upon the surrender by the said company to the State treasury of the balance of the said four millions of dollars of bonds the State treasurer should deliver to the president of the said company treasury certificates of indebtedness to the amount of one million eight hundred thousand dollars; and in case the said company should not be able to deliver all of said bonds at one time, the treasurer was authorized and required to deliver to the said president such amount of such treasury certificates as should be proportioned to the amount of bonds delivered. It was further provided by the third section of the said act that the said treasury certificates of indebtedness, to be known and designated as revenue bond scrip of the State of South Carolina, should express that the sum mentioned therein was due by the State of South Carolina to the bearer thereof, and that the same would be received in payment of taxes and all other dues to the State, except special taxes levied to pay interest on the public debt. It was further provided by the fourth section of the said act that the faith and funds of the State were thereby pledged for the ultimate redemption of the said revenue bond scrip, and the county treasurers were thereby required to receive the same in payment of all taxes levied by the State, except in payment of special taxes levied to pay interest on the public debt; and the State treasurer and all other public officers were thereby required to receive the same in payment of all dues to the State; and still further to provide for the redemption of said revenue bond scrip an annual tax of three mills on the dollar, in addition to all other taxes on the assessed value of all taxable property in the State, was thereby levied, to be collected in the same manner and at the same time as might be provided by law for the collection of the regular annual

taxes of the State; and the State treasurer was thereby required to retire, at the end of each year from their date, one-fourth of the amount of the treasury scrip thereby authorized to be issued, until all of it should be retired, and to apply to such purposes exclusively the taxes thereby required to be levied. It was further provided by the sixth section of the said act that upon the delivery to the State treasurer of the said bonds, or of any part of them, the treasurer was thereby required to cause the same to be cancelled and destroyed.

8 VI. Upon the passage of the said act, the said company proceeded to perform its part of the said contract, and, having met with great success in its efforts, was able to surrender and did surrender to the State treasurer nearly all of the balance of the said four millions of dollars of bonds—which bonds so surrendered to the State treasurer were cancelled and destroyed. And the said State treasurer thereupon delivered to the said company revenue bond scrip, duly executed in conformity with the said act of March 2, 1872, in an amount proportioned to the amount of bonds so surrendered. That to enable the said company to redeem and surrender up $2,485,000 of the said bonds, the said company borrowed of Edward B. Wesley $326,925, and pledged with him as security therefor $975,000 of said revenue bond scrip; and also pledged a further sum of $30,000 of said revenue bond scrip with said Wesley to secure the further sum of $18,000, for cash advances made by him to enable the said company to take up and cancel certain other bonds of the said company guaranteed by the State of Tennessee. That your orators as such assignees, own the equity of redemption in said pledged revenue bond scrip after paying said Wesley or his assigns, and after paying certain bond creditors who have specific liens thereon to the amount of $135,000, after the payment of the said Wesley's advances and interest and expenses.

VII. Your orators further show that since said pledges as aforesaid, the said company prior to its being adjudicated a bankrupt, and your orators after they were duly appointed as such assignees, and also the said Edward B. Wesley, their pledgee for value as aforesaid, and his assigns, repeatedly and on many occasions endeavored to have said revenue bond scrip redeemed according to the spirit and intent of the said act, and took various proceedings in law and in equity to assert their said rights and equities. That the State officers invariably in answer to all such efforts set up and pretended that such act of the General Assembly of March 2, 1872, was invalid in law and contrary to the provisions of the Constitution of the United States, in this, to wit, that it created a series of bills of credit issued by the State of South Carolina, and not instruments to secure sums of money due by the State of South Carolina. That

9 the said State officers at various times and on various occasions and in various places repudiated and denied the validity of the said revenue bond scrip and of the act by virtue of which the same was created. That they resisted various legal proceedings taken by and on behalf of certain lawful holders of said revenue bond scrip to enforce the payment of the same; and the State

auditor and comptroller general took various proceedings in their State courts to procure decisions denying the lawful issue and the validity of said revenue bond scrip when issued, the results of which have been that the said comptroller general and county treasurers absolutely and unqualifiedly refuse to comply with the provisions of the said act of March 2, 1872, although thereby and of the action of your orators thereunder a large amount of the bonds aforesaid with the guaranty of the State as aforesaid were, on the faith of the said revenue bond scrip and of the loans procured of Wesley and other parties thereon, surrendered up to and cancelled by the said officers of the State of South Carolina, by which actions your orators have been placed in the position of actually defrauding the said Wesley and other parties of their moneys loaned as aforesaid on the faith of the said revenue bond scrip.

VIII. Your orators submit that by virtue of the said revenue bond scrip a valid contract subsists between the State of South Carolina and the holders thereof; that for its liability to perform such contract the State of South Carolina received not only valuable consideration, but a very large and adequate consideration in the surrender and extinguishment of bonds due by it for nearly double the amount of the revenue bond scrip delivered to the said company, and that the State of South Carolina is, and its comptroller general and county treasurers are, bound in law and good conscience to perform its contract as set forth in the said act of March 2, 1872, and in the said revenue bond scrip.

IX. Your orators further show that the State of South Carolina has not only neglected and refused to perform its said contract, but has made several laws impairing the obligation thereof: First, by an act of the General Assembly, passed March 13, 1872, and entitled "An act to abolish the office of State auditor and confer the duties of his office upon the comptroller general," it abolished the office of State auditor, he being the officer to levy and cause to be collected the taxes for the redemption of the said revenue bond scrip, and provided that the duties thitherto devolving upon that officer should be performed by the comptroller general; second, by an act of the General Assemby, passed October 22, 1873, and entitled "An act to repeal section four (4) of an act entitled 'An act to relieve the State of South Carolina of all liability for its guaranty of the bonds of the Blue Ridge Railroad Company by providing for the securing and destruction of the same,' approved March 2, 1872, and to repeal so much of section 72, chapter XII, title III, of the General Statutes as authorizes the State auditor to give notice annually to each county auditor of the rates per centum to be levied for various State purposes," after the State treasurer had delivered to the said company the revenue bond scrip aforesaid, and the said company had become the holders and owners thereof, it repealed the fourth section of the said act of March 2, 1872, and expressly forbade the comptroller general to levy any tax for any purpose whatever, unless expressly thereafter authorized to do so by statute, thus forbidding the levy of the taxes for the redemption of the said revenue bond scrip; third, by an act of the

General Assembly, passed December 22, 1873, and entitled "An act to raise supplies for the fiscal year commencing November 1, 1873, and to alter and amend the law in relation to the collection of taxes," it required the county auditors and county treasurers to proceed under the supervision of the comptroller general to the collection of the taxes therein levied, and forbade them to collect or cause to be collected any other tax whatever unless thereafter expressly authorized so to do—the taxes therein levied not including the taxes for the redemption of the said revenue bond scrip; and, further, it has since levied regular annual taxes for the State, and forbidden the collection of any other taxes than those so levied, without at any time levying the taxes for the redemption of the said revenue bond scrip.

X. The Blue Ridge Railroad Company, in South Carolina at the time it was adjudicated a bankrupt, was, and your orators, as its assigns in bankruptcy, now are, indebted to the State of South Carolina in
11 the sum of $10,845.33, being the amount of taxes assessed and imposed by the State on the property of the said company for the year 1872, none of which taxes are special taxes levied to pay the interest on the public debt. Of these taxes, $7,541.22 are assessed and imposed by and are payable to the county treasurer of Oconee county; and $3,304.11 are assessed and imposed by and are payable to the county treasurer of Anderson county. To J. W. Holeman, who was at the time county treasurer of Oconee county, and B. D. Dean, who was at the time county treasurer of Anderson county, and who were by the said act of the General Assembly of March 2, 1872, required to receive revenue bond scrip in payment of such taxes, your orators tendered in payment of the said taxes amounts of revenue bond scrip equal to the taxes payable to them respectively, but each and both of them refused to receive the whole or any part of the revenue bond scrip so tendered to them by your orators, and in so refusing they pretended that authority to receive the said revenue bond scrip had been taken from them by the said acts of the General Assembly of October 22, 1873, and December 22, 1873. The said J. W. Holeman has since ceased to hold the office of county treasurer of Oconee county, and the defendant, R. S. Porcher, now holds the said office; and the said B. D. Dean has since ceased to hold the office of county treasurer of Anderson county, and the defendant, Samuel E. Moore, now holds the said office.

XI. The defendant, Johnson Hagood, who is the comptroller general of South Carolina, and whose duty it is to levy the taxes for the redemption of the said revenue bond scrip held and owned by your orators, has neglected and refused so to do, and in like manner pretends that his authority to levy such taxes is taken away by the said acts of the General Assembly of October 22, 1873, and December 22, 1873.

XII. Your orators charge that the said actings and doings of the State of South Carolina are in breach of its contract with your orators as holders and owners of the said revenue bond scrip, are in fraud of their rights in that respect, and are against good conscience and equity; and that the said acts of the General Assembly, abol-

ishing the office of auditor and repealing the provisions of the act of March 2, 1872, are laws impairing the obligation of a con-
12 tract, and invalid and void, as being in violation of the Constitution of the United States. They moreover charge that by reason of the premises they cannot perform their duties as assignees as aforesaid, because the said taxes due by them are a lien upon the property of the said company, and create a cloud upon their title thereto, and that by reason thereof they are unable to make for the creditors they represent as good a sale thereof as otherwise they might.

XIII. Your orators also charge that by reason of the actings and doings of the said General Assembly and of said State officers aforesaid the said revenue bond scrip has become depreciated in value and is rapidly depreciating in value; and they fear and charge that the revenue bond scrip so pledged, and in the hands of said Wesley and his assigns, and in the hands of other *bona fide* creditors and their assigns, pledged by the same company as aforesaid, has become, and is by the actings and doings aforesaid rapidly becoming, so depreciated in market value as that they fear, unless restrained, the same will not be worth the loans made by the said Wesley and by others in good faith on the pledge of the same as aforesaid, unless by the adjudication of this honorable court it shall be established that such actings and doings are unlawful.

XIV. Your orators also charge that by reason of the said actings and doings of the said General Assembly and of said State officers aforesaid the property of the said company in the hands of your orators as aforesaid, and also their equity of redemption in the said revenue bond scrip so held in pledge as aforesaid, is becoming rapidly less valuable; and they fear and apprehend that unless protected by the decree and injunction of this honorable court they will suffer great loss and irreparable damage, and will be subjected to numerous suits and fittigations in consequence thereof.

In tender consideration whereof, and to the end, therefore, that the defendants may full answer make to the premises, and that it may be declared that a valid contract subsists between your orators as holders and owners of the said revenue bond scrip and the State of South Carolina, whereby the latter is bound to perform the matters by the said act of the General Assembly of March 2, 1872, and
13 the said revenue bond scrip, promised by it to be done; and that the said State, for the purpose of defending itself as it may be advised to be proper, may be allowed, on the application in its behalf of its attorney general, to become a party to these proceedings; that repeal of the provisions of the said act of the General Assembly of March 2, 1872, may be declared to impair the obligation of the said contract, and therefore to be unconstitutional, null, and void; that the comptroller general of South Carolina may be required, in pursuance of the said act, to levy a tax to satisfy the revenue bond scrip held and owned by your orators; that the defendants, the county treasurers, may be decreed to receive the said revenue bond scrip in payment of the said taxes due by your orators to the State of South Carolina; that on their refusal to do so they

may be enjoined from enforcing the said taxes by selling the property of your orators, or in any other manner, and that on such refusal the lien of the said taxes on the property of your orators may be declared to be discharged; and that your orators may have such other and further relief as to your honors shall seem meet, may it please your honors to grant unto your orators not only your writ of injunction in the premises, but also your writ of subpœna, directed to the said Johnson Hagood, comptroller general of South Carolina, R. S. Porcher, county treasurer of Oconee county, in the said State, and Samuel E. Moore, county treasurer of Anderson county, in the said State, commanding them, and each of them, to be and appear before your honors in this honorable court, then and there true, direct, and perfect answer to make to all and singular the premises, and to stand, abide, and perform such orders and decree therein as to your honors shall seem fit.

And your orators will ever pray, &c.

DENNIS McMAHON,
TH. S. CAVENDER,
Complainants' Solicitors.

THE STATE OF SOUTH CAROLINA, *Richland County:*

Personally appeared before me John P. Southern, who, being duly sworn, deposed that the matters and things in the above bill of complaint set forth are true, so far as they are within his knowledge, and that so far as they are obtained from the information of others he believes them to be true.

J. P. SOUTHERN.

Sworn and subscribed to before me, this third day of May, 1879.

L. J. NOAH, [L. S.]
Notary Public, S. C.

Filed May 5, 1879.

14 *Marshal's Return of Service.*

U. S. MARSHAL'S OFFICE,
CHARLESTON, S. C., *May* 21, 1879.

I hereby certify that by my deputy, J. L. Little, I served a copy of the within bill of complaint personally on Johnson Hagood personally at Columbia, So. Ca., on the 9th of May, 1879, and by my deputy, A. L. Welsh, on Samuel E. Moore, county treasurer, personally at Anderson C. H., So. Ca., on 10th of May, 1879, and by my deputy, Wm. Kennedy, on R. S. Porcher, county treas., personally at Walhalla, So. Ca., on the 12th May, 1879.

R. M. WALLACE,
U. S. Marshal.

Subpœna ad Respondendum.

UNITED STATES OF AMERICA,
Fourth Circuit, State of South Carolina.

15 The President of the United States of America to Johnson Hagood, comptroller general of the State of South Carolina; R. S. Porcher, county treasurer of Oconee county, and Samuel E. Moore, county treasurer of Anderson county, in the said State:

You are hereby strictly commanded and firmly enjoined that, all manner of excuses being laid aside, you be and appear before the judges of the circuit court of the United States for the district of South Carolina, at Charleston, on the first Monday of June, twenty days after the service thereof, then and there true and perfect answer to make, upon your corporal oath, on the Holy Evangelists, to all such matters as shall be objected against you in the bill of complaint of John P. Southern and James P. Low, assignees of the Blue Ridge Railroad Company in South Carolina, a bankrupt.

And also that you do, on the rules day next immediately after the day appointed and expressed, file or cause to be filed in
16 the registry of said court your plea, answer, or demurrer to the said bill of complaint.

Hereof fail not, under the pain of one hundred pounds.

Given under the seal of the said court.

Witness the Honorable Morrison R. Waite, Chief Justice of the United States of America, at Charleston, in South Carolina, district aforesaid, the fifth day of May, in the year of our Lord one thousand eight hundred and seventy-nine, and in the 103 year of the sovereignty and Independence of the United States of America.

[SEAL.] J. E. HAGOOD,
C. C. C. U. S., Dist. S. C.

D. M. McMAHON,
THOS. S. CAVENDER,
Complainants' Solicitors.

17 *Memorandum.*

The defendants are required to enter their appearance in this court, in the clerk's office of said court on the first Monday of June, 1879, otherwise the bill will be taken *pro confesso.*

Marshal's Return of Service.

Entered in my office civil docket, folio 165.
May 5, '79. R. M. WALLACE,
U. S. Marshal.

U. S. MARSHAL'S OFFICE,
CHARLESTON, SO. CA., *May* 21, '79.

I hereby certify that by my deputy, J. L. Little, I served a copy of the within *sub. ad. R.* personally on Johnson Hagood,
18 compt. gen'l, at Columbia, S. C., on 9th May, 1879, and by my deputy, A. L. Welch, personally on Samuel E. Moore,

county treas. at Anderson C. H., S. C., on 10th May, 1879, and by my deputy, Wm. Kennedy, personally on R. S. Porcher, county treas., at Walhalla, S. C., on the 12th May, 1879.

R. M. WALLACE,
U. S. Marshal.

And on the 28th day of May, A. D. 1879, came into court the defendants, by their solicitor, LeRoy F. Youmans, attorney general of South Carolina, and obtained the following order granting leave for further time to answer, which order is in the words and tenor following:

Order.

19 UNITED STATES OF AMERICA,
Fourth Circuit, District of South Carolina:

JOHN P. SOUTHERN *et al.*, Assignees,
vs.
JOHNSON HAGOOD, Comptroller General of South Carolina, and others.

On motion of LeRoy Youmans, attorney general of South Carolina—

Ordered, That the order granted herein for plaintiffs, on 10th April, A. D. 1879, without notice to defendants, be so amended as that the defendants may have until rule's day in July next to file their answer, pleas, or demurrer herein.

HUGH L. BOND.

May 28, 1879.

And on the 3d day of September, A. D. 1879, came into court the defendants, by their solicitor, LeRoy F. Youmans, attorney general of South Carolina, and filed the following answer, which answer is in the words and tenor following:

Answer of Defendanst.

20 THE UNITED STATES OF AMERICA,
Fourth Circuit, District of South Carolina:

In the Circuit Court. In Equity.

JOHN P. SOUTHERN and JAMES P. LOW, Assignees of the Blue Ridge Railroad Company in South Carolina, Complainants,
against
JOHNSON HAGOOD, Comptroller General of South Carolina; R. S. PORCHER, and SAMUEL E. MOORE, Defendants.

To the honorable the judges of the circuit court of the United States for the district of South Carolina:

These defendants, saving and reserving to themselves all manner of benefit and advantage of exception to the manifold errors and insufficiencies in the complainants' said bill of complaint contained, for answer thereunto, or to so much and such parts thereof as

they are advised it is material for them to answer unto, answering, say:

That as to the matters and things set forth in the paragraphs of said bill of complaint, numbered respectively I and II, the defendants have no knowledge enabling them to admit or deny the same. They have heard that the said Blue Ridge Railroad Company was adjudicated a bankrupt, and that the complainants and George W. Williams have acted as the assignees in bankruptcy of said corporation; and also that certain pretended certificates of indebtedness of the State of South Carolina, commonly called revenue bond scrip, were issued to the said corporation by officers of the said State; but whether said adjudication in bankruptcy was properly and legally had, and the said complainants are now the duly appointed assignees of said corporation, and to what extent such revenue bond scrip was issued to said corporation, these defendants do not know; nor do they know anything of the transactions had in respect of such scrip between the said corporation or its assignees and Edward B. Wesley.

As to the several matters and things set forth in the subsequent paragraphs of said bill of complaint, except as the same consists of recitals of acts of the General Assembly of the State of South Carolina, and except as to the allegations that the defendant, R. S. Porcher, is treasurer of Oconee county, and the defendant, Samuel E. Moore, is the treasurer of Anderson county, and that the defendant, Johnson Hagood, has refused to levy a tax for the redemption of said revenue bond scrip, and, except as hereinafter stated, the defendants say that they have not knowledge sufficient to enable them to admit or deny the same. When the matters alleged consist of recitals of and reference to acts of the General Assembly of said State, the defendants crave that reference shall be had to the full text of the said acts; they admit that Johnson Hagood, as comptroller general, has refused to levy any tax for the redemption of said scrip, and also that at the time of filing said bill said Porcher and Moore were county treasurers, as alleged, but say that since the filing of said bill both the said Porcher and Moore have ceased to hold said offices, and that said offices are now filled by other incumbents, viz., the office of county treasurer of Oconee county, by H. F. Alexander, and the office of county treasurer of Anderson county, by William McGukin. 21

Further answering the said bill, the defendants say:

That on September the fifteenth, one thousand eight hundred and sixty-eight, the General Assembly of South Carolina passed an act to authorize additional aid to the Blue Ridge Railroad Company in South Carolina, whereby it was in these words enacted that "whenever any contract or contracts may be made by the said company for borrowing money from any person, company, or corporation to any amount not exceeding one million of dollars, and when such contract shall be made by bonds signed by the president of said company, under its [illegible] countersigned by the secretary and treasurer thereof, it shall be the duty of the comptroller general to endorse thereon that the faith and funds of the State are pledged for

the faithful performance of the said contract, as respects the punctual payment both of the principal and interest, according to the terms of the said contract: Provided, That so much of the said issue as may be necessary, not exceeding three hundred thousand dollars, shall be applied to the redemption of the present bonded debt of the said company."

That by the second section of the said act it was further enacted that the faith and funds of the State of South Carolina
22 are pledged to secure the payment of any contract which shall be made by the Blue Ridge Railroad Company in South Carolina, from any person or corporation, to an additional amount not exceeding three millions of dollars; and when such contract shall be made by bonds signed by the president of the said company, under its seal, and countersigned by the secretary and treasurer thereof, it shall be the duty of the comptroller general of the State to endorse thereon that the faith and funds of the State of South Carolina are pledged to the faithful performance of the said contracts, as it respects the payment both of the principal and interest, according to the terms of the said contract; and that upon such endorsement being made the whole property of said company in South Carolina, North Carolina, Georgia, and Tennessee shall stand pledged and mortgaged to the State, without any further act or deed of the company, for the faithful performance on the part of the said company of such contract, in priority and preference of any other debt which the said company may thereafter create or incur.

And it is further in and by said act enacted and declared to be an express condition that the said bonds, or any part thereof, shall not be used unless upon application to the Congress of the United States or to private capitalists, the amount of three millions of dollars in currency, or so much of that sum as may be necessary, shall be furnished in exchange upon the security of said bonds.

And these defendants expressly aver that this condition has never been repealed; and that being clearly expressed upon the face of the act which authorized the issue of the bonds, it conveyed to every person dealing with the said bonds express notice thereof, and bound them to see that the condition was fullfiled. And these defendants also aver that the said condition never has been performed, and that any use made of the said bonds, in the manner set forth by the complainants, is unauthorized and illegal.

Defendants insist that the allegations of the complainants that such repeal is contained in the act of March 6th, 1871, is wholly without legal foundation.

The last-mentioned act is entitled "An act to promote the consolidation of the Greenville and Columbia Railroad Company and
23 the Blue Ridge Railroad Company," and all the sections of that act among which is the clause recited in the bill of complaint repealing the second section of the act of September the fifteenth, 1868, are part and parcel of the details of the consolidation proposed by the said act, and all have relation to and are dependent upon such consolidation.

And these defendants aver that the said companies never accepted

the said act, and never complied with its provisions, and that such intended consolidation has never taken place, nor have any measures been taken to that end.

And these defendants submit that the allegation that this repeal is independent of the special purpose set forth in the title of the act would involve the General Assembly in the discredit of attempting to violate that portion of the State constitution which requires each act to disclose its purpose in its title, and that it should be confined to one subject.

The defendants therefore deny the authority in any one to offer the said bonds for sale in the New York or any other market; and they also deny that the complainants can be deemed *bona fide* owners of them.

And these defendants, further answering, admit that there is upon the statute book of South Carolina an act entitled "An act to relieve the State of South Carolina of all liability for its guaranty of the bonds of the Blue Ridge Railroad Company, by providing for the securing and destruction of the same;" but they insist that the said act is not only unconstitutional and void, but that it evidently must have been passed either by means of false pretenses, or of the suppression by the principal debtor, the Blue Ridge Railroad Company, of most important facts.

It is apparent from the statement in the bill, and from other circumstances, that the Blue Ridge Railroad Company had never parted with the possession of the bonds, and therefore no debt has yet been incurred by the State.

The Blue Ridge Railroad Company held their own bonds with the guaranty of the State on them, and were in the condition of a party seeking a loan on security, and not able to effect it.

No debt existed, and it was competent for the State at that stage to cancel her endorsement. It was, therefore, a false representation on the part of the Blue Ridge Railroad Company to affirm to the General Assembly that the State was debtor, and the consideration alleged for the issue of the revenue bond scrip was pretentious, and entirely failed.

24 These defendants do not admit that any value was paid by the complainant, or any holder thereof, for either the bonds of the Blue Ridge Railroad Company, or any of the revenue bond scrip issued under the act of March, 1872. On the contrary, these defendants have been informed, and so aver the fact to be, that whereas the acts of the General Assembly were passed with the intention of promoting work on the Blue Ridge railroad, no work of any kind has been done on the said road, nor has it advanced one foot since the passage of the said act.

These defendants, further answering, say that the said act of March 2, 1872, is unconstitutional in being repugnant to the Constitution of the United States, and also to that of South Carolina, but they also say that in a case duly made between the State of South Carolina, at the relation of E. F. Gary, against the several county treasurers of the said State, and in which issue was joined in the circuit court of South Carolina for the county of Richland, it was ad-

judged that the said act was unconstitutional and void, and the county treasurers and all other officers of the State were enjoined from collecting the tax levied by the said act, and the State treasurer was enjoined from issuing any of the said scrip, and that upon an appeal duly taken to the supreme court of the State of South Carolina the decree of the circuit court was affirmed and judgment entered on the 9th day of June, 1873, which said judgment now stands in full force and virtue.

And these defendants aver that they have no inherent power or authority in the premises; that the whole power over the subject rests in the State of South Carolina; that by the supreme authority of this State they have been enjoined from taking any action as prayed for by the complainants, and that they cannot but submit to that authority; that in fact the State of South Carolina is a necessary principal and real party to this suit, without whose presence no action can be taken by this court, and they pray that they may have the same benefit hereof as if they had formally filed their demurrer.

These defendants, further answering, say that by the repeal of the several sections referred to in the bill and by the abolition of the office of State auditor there is no person authorized to levy or collect the tax claimed in the bill, and the several treasurers are expressly forbidden, as well by the Legislature as by the mandate of the supreme court, from levying or collecting such tax, or from receiving or paying out any of the said revenue bond scrip and that this court has no jurisdiction to enforce such payment, receipt, or collection; that the proper remedy is by petition to the General Assembly of the State, and that any jurisdiction over such matter is denied to the courts by the Constitution of the United States. As to so much of the said bill as prays that defendants may be prevented from collecting the taxes due as set forth in the bill, and that revenue bond scrip shall be accepted in payment thereof, these defendants aver that the said taxes are justly due the State of South Carolina, and the legislative and judiciary departments of the said State have forbidden the acceptance of the said scrip by any officer of the State.

The county treasurers have given bonds to the State for the performance of the duties of their office, and both they and their sureties will be held responsible should they fail to obey the orders of the said courts and Legislature.

These defendants respectfully submit that the proper party to this suit is the State of South Carolina, and that if the court has no jurisdiction to make the State a party, it would be unjust and illegal to make any decree against these defendants.

And these defendants, denying all manner of unlawful combination and confederacy, and so forth, and having answered all such matters and things in the complainants' said bill of complaint contained, as they are advised it is material or necessary for them to answer unto, humbly pray to be hence dismissed with their reasonable costs and charges.

LEROY F. YOUMANS,
Att'y Gen'l, for Defendants.

STATE OF SOUTH CAROLINA, *Richland County:*

Personally appeared before me, Johnson Hagood, comptroller general of South Carolina, one of the defendants, and swears that the matters and things stated in the foregoing answer of his own knowledge are true, and those stated on information of others he believes to be true.

JOHNSON HAGOOD,
Compt. Gen'l, S. C.

Sworn to before me, this first day of September, 1879.

A. M. BOOZER, [SEAL.]
U. S. Commissioner.

Filed September 3, 1879.

26 And on the 6th day of October, A. D. 1879, came into court the complainants, by their solicitors, D. McMahon and Thos. Cavender, and filed the following replication; which replication is in the words and tenor following:

Replication.

THE UNITED STATES OF AMERICA,
Fourth Circuit, District of South Carolina:

In the Circuit Court. In Equity.

JOHN P. SOUTHERN and JAMES P. LOW, Assignees of the Blue Ridge Railroad Company in South Carolina, Bankrupt, Complainants,
against
JOHNSON HAGOOD, Comptroller General of the State of South Carolina; R. S. Porcher, County Treasurer of Oconee county, in the said State, and Samuel E. Moore, County Treasurer of Anderson County, in the said State, Defendants.

Replication to answer of defendants.

These repliants, saving and reserving unto themselves all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto say, that they will aver and prove their said bill of complaint to be true, certain, and sufficient in law to be answered unto, and that the said answer of the defendants is uncertain, untrue, and insufficient to be replied unto by these repliants, without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed, and avoided, traversed or denied, is true; all of which matters and things these repliants are and will be ready to aver and prove as this honorable court shall direct, and humbly pray as in and by their said bill of complaint they have already prayed.

TH. S. CAVENDER,
Complainants' Solicitor.
DENNIS McMAHON,
J. H. RION,
Of Counsel.

Filed October 6, 1879.

27 And on the 4th day of August, A. D. 1880, came into court the complainants, by their solicitor, Thos. Cavender, and obtained the following order of reference; which order is in the words and tenor following:

Order.

THE UNITED STATES OF AMERICA,
Fourth Circuit, District of South Carolina:

In the Circuit Court. In Equity.

JOHN P. SOUTHERN and JAMES P. LOW, Assignees of the Blue Ridge Railroad Company, in South Carolina, Bankrupt, Complainants,
against
JOHNSON HAGOOD, Comptroller General of the State of South Carolina; R. S. Porcher, County Treasurer of Oconee County, in the said State, and Samuel E. Moore, County Treasurer of Anderson County, in the said State, Defendants.

Order of Reference.

The pleadings in the above-entitled cause having been brought to an issue, and the said pleadings having been filed, on motion of Mr. T. S. Cavender, solicitor for the complainants, and by consent of Mr. Attorney General Youmans for the defendants—

It is ordered that it be referred to J. E. Hagood, Esq., the clerk of this court, as special master, to take testimony and proof upon the issues raised.

It is further ordered that all the testimony and proof heretofore taken in the cause entitled John P. Southern, George W. Williams, and James P. Low, assignees of the Blue Ridge Railroad Company, in South Carolina, bankrupt, complainants, *against* Solomon L. Hoge, comptroller general of South Carolina; J. W. Holeman, and B. D. Dean, defendants, be considered as in evidence in the above-entitled cause the same as if taken herein, with leave to either party to re-examine any witness heretofore examined therein.

It is further ordered that the said special master do file his report of the testimony and proof taken on or before the third Monday in October next.

This second day of August, A. D. 1880.

HUGH L. BOND.

I consent, not admitting, but protesting against all the allegations made in and rights claimed by the bill of complaint.

LEROY F. YOUMANS,
July 31, 1880. *Att'y Gen'l, for Defendants.*

28 *Testimony.*

United States Circuit Court, District of South Carolina.

AMOS D. WILLIAMS
vs.
JOHNSON HAGOOD, Comptroller General of the State of South Carolina; S. L. LEAPHART, Treasurer of said State; P. C. GAILLARD, County Treasurer of Charleston County; W. H. GIBBES, County Treasurer of Richland County; H. F. ALEXANDER, County Treasurer of Oconee County; WM. MCGUKIN, County Treasurer of Anderson County; JOHN P. SOUTHERN and JAMES P. LOW, Assignees in Bankruptcy of the Blue Ridge Railroad Company. } Bill of Complaint.

In the Circuit Court. In Equity.

JOHN P. SOUTHERN *et al.*, Assignees, etc., Complainants,
vs.
JOHNSON HAGOOD, Comptroller General, *et al.*, Defendants. } Bill of Complaint.

Testimony taken, to be used in either of the above-stated cases, together with testimony heretofore taken by John P. Thomas,
29 Jr., acting as special master, by consent of counsel, in the necessary absence of James E. Hagood, Esq.

Reference held in Columbia, S. C., 15th day of October, 1880.

Present: Mr. Attorney General LeRoy F. Youmans, solicitor for the defendants, and Thos. S. Cavender and James H. Rion, solicitors for the plaintiffs.

A. D. WILLIAMS sworn.

Examined by Col. RION:

Witness was a stock broker, residing in New York in 1872, in Wall St. Was and is now a member of the stock board—rather, stock exchange. All the above is true as to preceding and subsequent year. Dealt in State securities, and in some of them quite largely. In the early part of 1872 purchased in New York market $417,000 in bonds of the Blue Ridge railroad, guaranteed by the State of South Carolina. In April, I think, 1872, I delivered these bonds to the treasurer of State of South Carolina, the president of the Blue Ridge, Mr. Patterson, Jno. J., being present, and received therefor $166,000 of South Carolina revenue bond scrip. I own all of that scrip now. He exhibits one of this class of scrip now (which is here attached, and endorsed "John P. Thomas, Jr."):

$100.00. No. 91. $100.00.

Revenue Bond Scrip.

THE STATE OF [Palmetto Tree] SOUTH CAROLINA.

COLUMBIA, S. C., *March* —, 1872.

Receivable as one hundred dollars in payment of all taxes and dues to the State, except special tax levied to pay interest on public debt.

NILES G. PARKER,
State Treasurer.

One hundred dollars. One hundred dollars.

[On each side of scrip:] One hundred dollars, act March, 1872.

Endorsed: Jno. P. Thomas, Jr., acting special master.

All the scrip bought at that time is of the same class as this, exactly like it, except the denomination, and this is the scrip
30 which witness now owns. Witness sold at auction, through Beard Bros. & Senn, auctioneers, at Columbia, 22d April, 1879, $20,000 of this scrip, and it brought $200, out of which was paid, for commissions and advertising, $15.

On 25th of April, 1879, he made a conditional sale to W. R. Cathcart of $8,000 of same scrip. A copy of bill of sale is here attached, marked "E."

On 23d of April, 1879—I think 23d—I went to State treasurer's office in Columbia, S. C., and demanded payment of $166,000 South Carolina revenue bond scrip, which is the scrip upon which action was brought, and was received in exchange for Blue Ridge railroad bonds, as before stated. I made the demand as stated in "A."

In response, he refused to pay for this scrip, or to have anything to do with it, giving as his reason that no money had been collected and no appropriation had been made for its payment. On same day he made a verbal demand of the comptroller general, and on the next day made a written demand, specified in "B," and endorsed by the comptroller general. Comptroller general answered that he would refer the matter to the law officer of the State, and witness never heard anything more from him on the subject.

No assessment nor levy has been made by comptroller general in pursuance of the demand.

The value of witness's scrip in New York is nothing: it has no value.

X examined by attorney general:

The scrip is in witness's possession in New York city. Part in witness's own possession in city of New York, and part in vaults of brother-in-law.

There have been three different issues of scrip; mine belongs to the first issue. I have seen some of all classes. The second issue is known as the American bank-note scrip, and the third issue as the Washington scrip.

MEM. The attorney general called for the production of the scrip.

X X examined by Col. RION:

The scrip which witness has is the original scrip, and never has been exchanged for any other. The scrip sold by Mr. Beard for witness was not a part of the $166,000, but of the same class of scrip.

31 SAM'L BEARD sworn.

Examined by Col. RION:

Witness in 1879 and present year a resident of Columbia; occupation, auctioneer and commission merchant. Mr. Beard testified to the same effect as did Mr. Williams in regard to the sale, except that it was sold *to* Mr. Williams. The sale was at public auction, after it was advertised in one of the Columbia papers; have no recollection of selling any scrip except the above in that year. On 5th January, 1880, witness sold at Columbia at public auction, after advertisement in Columbia Register, $18,000 of the revenue bond scrip for $95, which belonged to the Citizens' Savings Bank, bankrupt, and purported to be sold in pursuance of order of U. S. district court in bankruptcy. Ordinary attendance at that sale of moneyed men and brokers, the attendance being a little fuller than usual. The purchase was by T. S. Cavender, who was a purchaser of other securities.

No question by attorney general.

JOHN P. SOUTHERN sworn.

Examined by Col. RION:

Was present at the sale of $20,000 scrip of Mr. Williams, and the same was bought by Mr. J. M. McKay.

A. D. WILLIAMS recalled by Col. RION:

He did not purchase the $20,000 of scrip sold by Mr. Beard. It was purchased by Mr. McKay; his initials he did not recollect.

W. R. CATHCART sworn.

The witness is shown the agreement of sale of scrip between himself and Mr. Williams, and marked "E," which he recognises. This contract has never been carried out. Witness endeavored to use the scrip for payment of taxes, but was unable to do so, and therefore the contract was not carried out. Witness made a tender of some of this scrip for payment of taxes to treasurer of county of Richland, and received a certificate from treasurer; all set forth in "C." The scrip attached is the one tendered. This scrip is the one I received from Mr. Williams. Witness was present when Mr. Williams made the demand upon the State treasurer. He corroborates what Mr. Williams says in regard to demand upon State treasurer;
32 corroborates also what Mr. Williams says as to demand upon the comptroller general, being present at the time. Witness was present when the demand was made upon State treasurer by Mr. Southern, which is the same exact words as the demand made by Mr. Williams, except that the amount was stated to be $994,870.

Was present when Mr. Southern made demand upon State comptroller general, Johnson Hagood; demand made was in exactly same words as that made by Mr. Williams, except that the amount is stated to be $994,870, and the written demand was signed J. P. Southern, assignee, &c.

No question by attorney general.

THOS. J. GIBSON sworn.

Examined by Col. RION:

This witness corroborates what has been said in testimony in regard to demands made upon the State treasurer by Messrs. Williams and Southern as assignees. Witness is a broker doing business in the city of Columbia. He is shown the scrip which has been put in evidence here; knows of no sale lately, but present value is about one and a half per cent.

X examined by Attoney General YOUMANS:

Somebody offered him one and a half per cent., and witness asked time to confer with that man. Witness says that he himself is the man who offered one and a half per cent.; witness also said that Mr. T. S. Cavender offered one and a half per cent., to the best of his recollection.

JOHN P. SOUTHERN recalled.

Examined by Col. RION:

Is one of the assignees in bankruptcy of the Blue Ridge Railroad Company. He says that he holds some of the scrip—revenue bond scrip—as assignee of the Blue Ridge Railroad Co., which is subject to a pledge as collateral to creditors of the road, to the amount of $994,870. Witness made a tender of some of this scrip to Mr. Neagle, then county treasurer of Richland county, in payment of taxes; made the tender for Dr. Wheeler, as set forth in "D;" did not himself make a tender of them for taxes of Blue Ridge railroad; witness made a demand upon State treasurer; corroborates the testimony of Mr. Cathcart; made a demand upon comptroller general, corroborating the testimony of Mr. Cathcart; held no posi-
33 tion in Blue Ridge R. R. Co., except as assignee; witness had in his possession the stock book of this company.

(The plaintiffs will put in evidence the stock books of the Blue Ridge Railroad Co.)

X examined by Attorney General YOUMANS:

Scrip is pledged to Mr. E. B. Wesley; was pledged in 1872, before witness's connection with the bankrupt estate.

The attorney general calls for the production of the scrip.

XX examined by Col. RION:

This stock is not pledged to anybody but Mr. Wesley, as far as witness knows.

The plaintiffs now introduce the two transcripts of the Supreme Court of the United States of the two original causes, and also the statutes of the State of South Carolina, relating to the Blue Ridge Railroad Co., its bonds, and the scrip in question, and in any manner affecting the case.

The above testimony was taken by me at a reference held in Columbia, S. C., on the 15th day of October, 1880.

JNO. P. THOMAS, JR.,
Special Master.

(A.)

(Copy.)

Mr. TREASURER: My purpose in calling on you this morning is to tender and demand payment of $166,000 of revenue bond scrip.

The scrip is in these packages. I would be glad if you would examine it and count it.

Mr. TREASURER: I now tender you this revenue bond scrip, amounting to $166,000, and demand payment of it under the provisions of the act of the General Assembly of March 2, 1872, entitled "An act to relieve the State of South Carolina of all liability for its guaranty of the bonds of the Blue Ridge Railroad Company, by providing for the securing and destruction of the same."

34 (B.)

(Copy.)

COLUMBIA, S. C., *April* 23, 1879.

HON. JOHNSON HAGOOD, *Comptroller General.*

SIR: I called on Hon. S. L. Leaphart, State treasurer, yesterday, and tendered him revenue bond scrip, amounting to $166,000, and demanded payment of the same under the provisions of the act of the General Assembly of March 2, 1872, entitled "An act to relieve the State of South Carolina of all liability for its guaranty of the bonds of the Blue Ridge Railroad Company, by providing for the securing and destruction of the same." He refused to pay the scrip, or to have anything to do with it, alleging that no money had been collected, and no appropriation had been made, for its payment.

Referring to the conversation I subsequently had with you, and deferring to your suggestion as to putting my views in writing, I hereby demand that you do, from time to time, prepare and transmit to the several county auditors all such forms and instructions as you may deem necessary for collecting, in the same manner and at the same time as have been provided by law for the levy and collection of the regular annual taxes of the State for the current fiscal year, the taxes levied by the fourth section of the aforesaid act of the General Assembly for the redemption of the said scrip.

Very respectfully,

(Signed) A. D. WILLIAMS.

(Endorsement:) (Copy.) Comptroller general's office, 24th April, 1879. I hereby acknowledge service of the original paper of which this is a copy. (Signed) Johnson Hagood, C. G.

(C.)

COLUMBIA, S. C., *May* 20, 1879.

I, this day, at the office of the treasurer of the county of Richland, made a formal tender of revenue bond scrip, an ob-
35 ligation on the part of the State, receivable in payment of all taxes and dues to the State, except special tax levied to pay interest on public debt, in part settlement of State taxes, with cash to cover the balance. While awaiting to be served by the treasurer in his office, he turned to me, anticipating my purpose, and said:

"Mr. Cathcart, if it is your wish to make a formal tender for your taxes, in paper other than currency, I would prefer to delay the matter for a day or two for instructions, as I am under positive instructions not to receive any tender except currency."

I replied that I must settle my taxes to-day. I prefer to do so now, I therefore make this tender, part in currency, the balance in scrip—will you receive it? Here I read the face of the scrip.

Mr. Gibbes then said:

I am acting under general instructions, and can receive nothing but currency, silver or gold. But I will give you my certificate for the amount of the scrip, showing that you have tendered me so much for a part of your State taxes.

I accepted the certificate, which is attached hereto.

All of the foregoing transpired in the presence of Mr. Geo. Symmers and Mr. J. S. Robbins.

(Signed) W. R. CATHCART.

Witness:

(Signed) J. S. ROBBINS.

(*Certificate Attached to Original.*)

(Copy.)

COLUMBIA, S. C., *May* 20, 1879.

W. R. Cathcart has this day tendered revenue bond scrip, No. 90, face value $100.00, signed by Niles G. Parker, State treasurer, dated March, 1872, for a part of his State tax, amounting to $195, which, under the acts, I do not recognize as lawful tender for taxes.

(Signed) W. H. GIBBES,
County Treasurer.

36 (Copy.)

(Scrip No. 90 attached.)

$100.00. No. 90. $100.00.

Revenue Bond Scrip.

THE STATE OF [Palmetto Tree] SOUTH CAROLINA.

COLUMBIA, S. C., *March* —, 1872.

Receivable as one hundred dollars in payment of all taxes and dues to the State, except special tax levied to pay interest on public debt.

NILES G. PARKER,
State Treasurer.

One hundred dollars. One hundred dollars.

[On each side of scrip:] One hundred dollars, act March, 1872.

Endorsed: Jno. P. Thomas, Jr., special master.

(D.)

(Copy.)

OFFICE OF COUNTY TREASURER, RICHLAND COUNTY,
COLUMBIA, S. C., *May* 16, 1874.

The revenue bond scrip hereunto attached, being $1,500, was presented and tendered to me in payment of the tax (with penalty) upon the real estate in the city of Columbia, known as the Wheeler House, by Dr. E. W. Wheeler, the owner thereof.

As treasurer of Richland county, I refuse to receive said scrip in payment of said tax, believing that I am not authorized by law to receive the same.

(Signed) J. L. NEAGLE,
County Treasurer, Richland Co.

(E.)

(Copy.)

Memorandum of agreement made this 25th day of April, 1879, between A. D. Williams, of the city of New York, and W. R. Cathcart, of the city of Columbia, as follows:

The said Williams agrees to sell to the said Cathcart, and
37 the said Cathcart agrees to buy from the said Williams, eight thousand dollars of revenue bond scrip of the State of South Carolina, issued under the act of the General Assembly of March 2, 1872, at the rate of 70 per cent. of its face value, on the following conditions, to wit: That the said scrip shall be delivered to the said Cathcart in such amount and at such times as he may require within the next thirty days; and that, on receipt of the same, he shall use it in payment of taxes levied by the State except in payment of special tax levied to pay interest on the public debt—or in tender of such payment; and if the scrip so delivered to the said

Cathcart shall be received in payment of taxes, as aforesaid, he shall, within one day thereafter, pay the said Williams for the same at the rate aforesaid; but if the said scrip shall not be so received, he shall forthwith return the same to the said Williams, and this agreement shall thereupon be null and void.

(Signed) A. D. WILLIAMS.
W. R. CATHCART.

Witness:
J. S. ROBBINS.

Received of A. D. Williams two hundred dollars in revenue bond scrip to be used as specified above.

W. R. CATHCART.

April 25th, 1879.

(Endorsement on face of agreement:) 15 Oct., 1880. One hundred of scrip returned. (Signed) A. D. Williams.

38 *Testimony Taken by Consent of Counsel.*

Endorsed on commission as follows:

We consent that this testimony be taken before T. M. Wilkes, Esq., of Washington, D. C., and that the testimony taken in this case be considered in evidence in case of A. D. Williams, complainant, against Johnson Hagood, comptroller general, *et al.*, defendants.

LEROY F. YOUMANS,
Attorney General, for Defendants.
TH. S. CAVENDER,
Complainants' Solicitor.

Columbia, S. C., Nov. 6, 1880.

I, the undersigned commissioner, do hereby certify that, in pursuance of the annexed commission empowering me to take evidence in a cause wherein John P. Southern and James P. Low, assignees of the Blue Ridge R. R. Co. in South Carolina, bankrupt, are complainants, and Johnson Hagood, comptroller general of the State of South Carolina, R. S. Porcher, county treasurer of Oconee county in the said State, and Samuel E. Moore, county treasurer of Anderson county in the said State, are defendants; after taking the oath annexed to the said commission, on the first day of December, 1880, at the city of Washington, District of Columbia, I proceeded to take the examination of James P. Low, a witness of lawful age, who being duly sworn, deposed and said in answer to the interrogatories accompanying the said commission, as follows, viz:

1. To the first interrogatory:

My name is James P. Low; my age fifty years; my residence, Washington, D. C.; and my occupation that of a civil engineer in the employ of the United States.

2. To the second interrogatory:

In the years 1873 and 1874 I resided in Columbia, Richland

county, South Carolina; my occupation was that of a civil engineer.

3. To the third interrogatory:

I was at one time the chief engineer of the Blue Ridge R. R. Co., of South Carolina, and held that position from the early part of the year 1869 until January, 1873; on the 16th July, 1873, I was appointed one of the assignees of the Blue Ridge R. R. Co. in
39 South Carolina, in bankruptcy, by the Hon. George S. Bryan, U. S. district judge for South Carolina, which position I still hold.

4. To the fourth interrogatory:

On the 30th day of June, 1874, I went to Walhalla, and on Thursday, the 2d day of July, 1874, I tendered to Mr. Holeman, treasurer of Oconee county, revenue bond scrip in payment of taxes due the State of South Carolina from the Blue Ridge R. R. Co. of South Carolina, other than taxes levied to pay the interest on the public debt. The amount of the tender I am not able to recall. I can only say on that point that I had ten thousand ($10,000) dollars in revenue bond scrip with me in the county treasurer's office, and I tendered to him enough to pay in full all the taxes then due to the State of South Carolina from the Blue Ridge R. R. Co. of South Carolina, other than those levied to pay interest on the public debt. In like manner, on the 3d day of July, 1874, at the office of the treasurer of Anderson county, S. C., I tendered to one Brazeale, the deputy of the county treasurer, —— Dean (who was not at his office), revenue bond scrip to pay the taxes due to the State of South Carolina by the Blue Ridge R. R. Co. of South Carolina, other than taxes levied to pay the interest on the public debt. I am quite sure that the ten thousand dollars was enough to pay all the taxes due up to June, 1874, not including taxes levied to pay the interest on the public debt. On Monday, the 6th day of July, 1874, I remember to have tendered to Mr. Dean, the treasurer for the county of Anderson, South Carolina, he then being at Columbia, S. C., revenue bond scrip sufficient to pay the taxes levied by the State of South Carolina for the fiscal year 1871, other than taxes levied to pay the interest on the public debt. What I have nominated as revenue bond scrip in this testimony is sometimes called Blue Ridge scrip.

5. To the fifth interrogatory:

The only record or memoranda in my possession are brief entries in my diary, from which I am able to fix the dates.

1. To the first cross-interrogatory:

The whole of my answer to the fourth interrogatory is derived from my own knowledge.

JAMES P. LOW.

There being no further witnesses to be examined, the com-
40 missioner closed said examination, and herewith returns the same with said commission, closed under his hand and seal, the first day of December, A. D. 1880.

T. M. WILKES, [L. S.]
Commissioner.

THE UNITED STATES OF AMERICA,
Fourth Circuit, District of South Carolina:

In the Circuit Court. In Equity.

JOHN P. SOUTHERN and JAMES P. LOW, Assignees of the Blue Ridge Railroad Company in South Carolina, Bankrupt, Complainants,

against

JOHNSON HAGOOD, Comptroller General of the State of South Carolina; R. S. PORCHER, County Treasurer of Oconee County, in the said State; and SAMUEL E. MOORE, County Treasurer of Anderson County, in the said State, Defendants.

Interrogatories to be propounded to JAMES P. LOW, of the city of Washington, D. C., a witness to be produced, sworn, and examined under the annexed commission on behalf of the complainants in the above-entitled cause.

First. What is your name, age, residence, and occupation?

Second. Where did you reside, and what was your occupation, in the years 1873 and 1874?

Third. Have you held any official position in relation to the Blue Ridge Railroad Company in South Carolina? If yea, what position, and when were you appointed, and by whom, and how long did you hold it?

41 Fourth. Did you, at any time while you held such position, or at any other time, pay, or tender to pay, any taxes assessed and imposed by the State of South Carolina on the property of the Blue Ridge Railroad Company in South Carolina, not levied to pay interest on the public debt? If yea, to whom did you make such payment, or tender of payment, and when and for what taxes, and in what amount, and in what kind of funds?

Fifth. Have you any record, memorandum, or acknowledgment of such payment or tender of payment? If yea, produce the same before the commissioner, so that a certified copy thereof may be made and appended to your testimony.

TH. S. CAVENDER,
Complainants' Solicitor.

The defendants propose the following cross-interrogatories:

If you answer yea to the fourth interrogatories, state what portion of your answer is derived from your own knowledge; and if derived from information of others, state particulars of such information, from whom derived, when and where received.

LEROY F. YOUMANS,
Attorney General.

TESTIMONY

Heretofore taken in the cause entitled Amos D. Williams, a citizen of the State of New York, *vs.* Solomon L. Hoge, Comptroller General, a citizen of South Carolina, and others, and to be used by consent of counsel in either of the hereinbefore-entitled causes.

Testimony taken before G. D. Bryan, Special Master.

United States Circuit Court, Fourth Circuit, South Carolina District.

A. D. WILLIAMS, a Citizen of the State of New York,

vs.

SOLOMON L. HOGE, a Citizen of the State of South Carolina.

A. D. WILLIAMS, being sworn, doth depose and say that he is a citizen of, residing and doing business in, the city of New
42 York: that in the early part of the year 1872 he paid out and advanced for the State of South Carolina a large amount of money, the benefit of which advance and payment has accrued to the said State under the following circumstances: The Legislature of the State of South Carolina, by a public act, had provided for and directed a certain issue to be made of treasury scrip, to the amount of $1,800,000, intended to retire by that issue the guarantee of the said State on certain bonds which had been issued by the Blue Ridge Railroad Company. These bonds had been issued by that company with the said guarantee of the State thereon endorsed, without any question of the legal obligation of the Blue Ridge Railroad Company because of the said bonds, or of the said State because of the said guarantee endorsed thereon.

This deponent further shews that at the time hereinafter stated he held and owned four hundred & seventeen thousand dollars of said mortgage bonds, guaranteed by the State of South Carolina.

This deponent further saith that he delivered said four hundred & seventeen thousand dollars of the Blue Ridge Railroad Company bonds, with the guarantee of the State of South Carolina endorsed thereon, and that as he knows the same were cancelled by the treasurer of the State; that this deponent received in consideration for the surrender of the said bonds one hundred and sixty-five thousand dollars of the said revenue bond scrip, for which amount the State of South Carolina is justly indebted to him.

This deponent says that the said transaction took place in the city of New York, in the early part of the year 1872; that the bonds held by him and guaranteed by the State were surrendered by him to the State treasurer, or the president of the Blue Ridge Railroad Company, both of whom were in the office of this deponent at the time, and both were present when this deponent received from the president of the Blue Ridge Railroad Company the said revenue bond scrip.

(Signed) A. D. WILLIAMS.

Sworn to before me, this 11th November, A. D. 1874.

(Signed) G. D. BRYAN,
Special Master.

43 United States Circuit Court, Fourth Circuit, So. Ca. Dist. In Equity.

A. D. WILLIAMS *vs.* SOLOMO*mo*N L. HOGE *et al.*

At the city, county, and State of New York, before me, a commissioner for the State of Georgia in said city, personally appeared Edward B. Wesley, as citizen of the State of New York, who, being duly sworn, doth depose and say that he is the *bona fide* holder and for valuable consideration of one million & five thousand dollars of revenue bond scrip, which was issued under the authority & according to the provisions of the act of the Legislature of the 2nd March, 1872, and that the said revenue bond scrip is so held for certain moneys advanced and paid by him, which moneys amount to the sum of three hundred and twenty-six thousand nine hundred and twenty-five dollars, exclusive of interest on the same, besides divers changes and expenses to which this deponent has been put concerning the same, & also exclusive of a further sum of eighteen thousand dollars, to be hereinafter mentioned; that the aforesaid sum of three hundred and twenty-six thousand nine hundred and twenty-five dollars was directly applied to redeem certain bonds of the Blue Ridge Railroad Company, which had been hypothecated for loans, as this deponent is informed, in aid of the Blue Ridge Railroad Company; which bonds so hypothecated were guaranteed by the State of South Carolina, and so redeemed by the money of this deponent, were surrendered to the State treasurer, and, so far as this deponent knows & believes, cancelled and destroyed. And this deponent further says that he came into the possession of the said scrip and paid the moneys hereinbefore referred to under these circumstances: The aforesaid bonds having been guaranteed by the State of South Carolina, and the Legislature of the said State having passed the act for the issue of the revenue bond scrip to retire the guaranty of the State on the said bonds, which were the bonds of the Blue Ridge Railroad Company, guaranteed by the State of South Carolina, this deponent was asked by John B. Palmer, who was the president of the Central National Bank, in the city of Columbia, in the State of South Carolina, and L. D. Childs, who was the president of the Carolina National Bank, at the same place, to advance a certain
44 sum of money, which would be secured by a certain amount of revenue bond scrip, and which money was to be applied to the redemption of certain bonds of the Blue Ridge Railroad Company, guaranteed by the State of South Carolina, and that these bonds so redeemed would be returned to the State treasurer to be cancelled, thus accomplishing the purpose of the Legislature in providing for the issue of the said scrip; that the said revenue bond scrip was so contemplated and provided by the act of the Legislature in the hands of John J. Patterson, who was the president of the Blue Ridge Railroad Company; that this deponent assented to the proposition, and in the latter part of the month of March, 1872, paid the sum of three hundred and twenty-six thousand nine hundred and twenty-five dollars, and received scrip to the amount of nine hundred and seventy-five thousand dollars at the par value thereof;

that this deponent made a further advance of eighteen thousand dollars for the purpose of enabling or assisting the said Blue Ridge Railroad Company to purchase or in some way retire certain bonds guaranteed by the State of Tennessee, and received as security for the same thirty thousand dollars more of the said *said* scrip, making the whole amount of the scrip in his hands one million & five thousand dollars; & this deponent says that the scrip so received by him was received from John J. Patterson, as the president of the Blue Ridge Railroad Company; that the moneys paid by this deponent were paid for the benefit of the Blue Ridge Railroad Company and the State of South Carolina, the guaranty of the State in consequence thereof being retired by the bonds on which the guaranty was endorsed being redeemed from hypothecation & cancelled by the State treasurer.

This deponent further says that, under certain proceedings in the courts of the State of New York, it has been decreed that from the surplus of scrip in the hands of this deponent certain bond creditors are entitled to the amount of one hundred and thirty-five thousand dollars. The reasons which influenced the court in the said decree are set forth in the certified copy thereof which accompanies this deposition.

And this deponent further says that the sum of three hundred & twenty-six thousand nine hundred & twenty-five dollars so paid by him redeemed from hypothecation two million four hundred and eighty-five thousand of the said bonds of the Blue Ridge
45 Railroad Company, and guaranteed by the State of South Carolina; that the said sum of three hundred & twenty-six thousand nine hundred & twenty-five dollars was paid by him, for the purposes hereinbefore mentioned, on the 27th March, 1872, & that the sum of eighteen thousand dollars subsequently was paid to redeem the bonds of the said company guaranteed by the State of Tennessee.

That under the agreement made at the time when he paid the said sums of money he is answerable to Anson Bangs, or perhaps other bondholders in interest, according to the decree referred to in the case of Anson Bangs *vs.* The Blue Ridge Railroad Company and others; and also to the Blue Ridge Railroad Company for the surplus which may remain after paying to himself what is due to him under the agreement made with him at the time when he paid the aforesaid sums of money so paid by him.

(Signed) E. B. WESLEY.

Subscribed & sworn to before me, this 29 day of October, 1874. Witness my hand & official seal.

[SEAL.] (Signed) J. SPENCER SMITH,
Commissioner for Georgia at N. Y. City.

Sworn to before me, this 14 day of Nov., 1874.

(Signed) JOHN A. SHIELDS,
U. S. Comm'r for N. Y.

United States Circuit Court, Fourth Circuit.

A. D. WILLIAMS *vs.* SOLOMON L. HOGE *et al.*

At New York city, in county and State of New York, before me, a commissioner for State of Georgia in aforesaid city, personally appeared Edward B. Wesley, a citizen of the State of New York, who, being duly sworn, doth depose and say, in addition to a more full explanation of the matters and things stated in another affidavit or deposition herein this day made, that soon after he made the advance to the Blue Ridge Railroad Company of the said sum of three hundred and twenty-six thousand nine hundred and twenty-five dollars, at the request and for the purposes and under the circumstances stated in said aforementioned affidavit, he also
46 made to said Blue Ridge Railroad Company a further advance of eighteen thousand dollars, to enable said railroad company to discharge an indebtedness it was owing to the State of Tennessee; and that to secure this deponent for such advance the said Blue Ridge Railroad Company transferred and delivered to this deponent thirty thousand dollars in nominal amount of the said revenue bond scrip of the State of South Carolina, which said scrip this deponent delivered to the American Bank Note Company, with the other scrip held by deponent, as is more fully stated in the said aforementioned other affidavit of deponent; and that at the time of the making and entering of the order or decree of the court of the State of New York, a copy of which accompanies the aforementioned other deposition of deponent, the deponent was the *bona fide* holder and owner for value of the said amount of one million and five thousand dollars of the said revenue bond scrip, & entitled by & under said decree to receive that amount of such new scrip to be engraved & delivered by the said American Bank Note Company.

And further says not.

(Signed) E. B. WESLEY.

Subscribed and sworn to before me, this 29 October, 1874. Witness my hand & official seal.

(Signed) J. SPENCER SMITH,
Comm'r for Georgia for N. Y. C'y.

Sworn to before me, this 14 day of Nov., A. D. 1874.

[SEAL.] (Signed) JOHN A. SHIELDS,
U. S. Comm'r for N. Y.

J. Fisher, trustee of Citizens' Savings Bank, being sworn, says: That the scrip held by him as trustee is collateral security for a note of Thomas Steers, dated 29 July, 1872, in the sum of nine thousand two hundred and ninety-seven 35–100 dollars.

And further he knows not.

(Signed) J. FISHER, *Trustee.*

Sworn to before me, this 19 Nov., 1874.

(Signed) G. D. BRYAN,
Special Master.

47 John B. Palmer, president of the Central National Bank of Columbia, being sworn, says that the scrip proved by him is held as collateral security for notes in his bank as follows, to wit: The scrip Nos. 51 & 52, $5,000 each, held to secure note of J. P. Southern, J. M McKay, and J. D. Caldwell in the sum of $5,800, dated 5th September, 1872, and that the said scrip was lodged by them; the balance of the scrip proved by him held to secure notes of T. Steers for $9,297.35, $1,366.32, & $1,064, the first dated 8th Aug., 1872, the 2d July 29th, 1872, & the 3rd 8th Aug., 1872, and *and* that the said scrip was lodged by him, the said T. Steers.

And further he knows not.

(Sworn) JOHN B. PALMER.

Sworn to before me, this 19th Nov., 1874.

(Signed) G. D. BRYAN,
Special Master.

John B. Palmer, president Central Nat. B'k, being sworn, further says that he holds scrip No. 22, for $5,000, as collateral security for note of W. B. Gulick and others, there being now due thereon about $1,500, and that the said scrip was lodged by the said W. B. Gulick on or about the 30th day of September, 1872.

(Signed) JOHN B. PALMER.

Sworn to before me, this 19th Nov., 1874.

(Signed) G. D. BRYAN,
Special Master

W. C. Swaffield, of the firm of R. & W. C. Swaffield, being sworn, says that the scrip proved by him is held by the said firm as collateral security for a note of Thos. Steers, contractor, and said note of $2,007.35 was given for merchandize furnished by the said firm to hands employed by the said Thos. Steers, contractor on the Blue Ridge railroad, and the said scrip was lodged by the said Thos. Steers, contractor, Dec. 4th, 1872.

(Signed) W. C. SWAFFIELD.

Sworn to before me, this 19th Nov., 1874.

(Signed) G. D. BRYAN,
Special Master.

48 J. P. Southern, being sworn, says that $10,000 of the receipts proved and held by him, to wit, certificates Nos. 295 & 296, for $5,000 each, is held as collateral security for money loaned W. H. Trescott, to wit, $1,800, very soon after the scrip was issued and the said scrip was lodged by the said Wm. H. Trescott; and he further says that the balance of the scrip proved and held by him, to wit, $40,500, was purchased at different times and from different persons, commencing soon after the scrip was issued; that the prices paid varied, and that he also sold scrip at various times, and that it is perfectly impossible for him to state the exact price *of* that which

he now holds cost him, or the persons from whom the same was purchased.

(Signed) J. P. SOUTHERN.

Sworn to before me, this 19th Nov., 1874.

(Signed) G. D. BRYAN,
Special Master.

STATE OF SOUTH CAROLINA, *Richland County:*

Before me personally appeared J. P. Southern, who, being duly sworn, says that the Blue Ridge scrip held by him and exhibited to G. D. Bryan, special master, to wit, certificates No-. 96, 97, 98, 99, 100, 101, 102, 103, and 202, for one thousand dollars each, was purchased at different times and from different persons, commencing soon after the scrip was issued; that the prices paid varied, and that he also sold scrip at various times, and that it is perfectly impossible for him to state the exact cost of that which he now holds or the persons from whom the same was purchased.

(Signed) J. P. SOUTHERN.

Sworn to before me, this 22d day of December, 1874.

[SEAL.] (Signed) G. W. WALKER,
Not. Pub.

STATE OF SOUTH CAROLINA, *Richland County:*

Before me personally appeared J. P. Southern, who, being duly sworn, says that the Blue Ridge scrip held by him and exhibited to G. D. Bryan, special master, to wit, certificates Nos. 34 & 35, 49 for $1,000 each, was purchased with the other scrip held by him at different times & from different persons & at various prices; that it is impossible for him to state the exact amount paid for this scrip or the person or persons from whom the same was perchased.

(Signed) J. P. SOUTHERN.

Sworn to before me, this 22 day of Feb'y, 1875.

[L. S.] (Signed) G. W. WALKER,
Not. Pub.

George W. Waterman, being sworn, says that the scrip, No. 73, for $1,000, which he now holds, he bought from H. W. Purvis in the latter part of 1872, for the sum of three hundred dollars; that the balance of the scrip proved and held by him, to wit, forty-four certificates of ten dollars each, and known as Washington scrip, he received from Messrs. Seibels & Ezell, with whom he had deposited original scrip to that amount; that deponent was informed by Mr. Seibels of the said firm that Col. J. J. Patterson, pres., had exchanged the Washington scrip for the original; that the deponent bought the said original scrip from J. C. Roach for the sum of one hundred and thirty-two dollars, in the latter part of the year 1872.

(Signed) GEO. W. WATERMAN.

Sworn to before me, this 20th Nov., 1874.
(Signed) G. D. BRYAN,
Special Master.

W. B. Gulick, being sworn, says that he bought the five pieces of scrip for $1,000 each, proved by him, from Col. James P. Low, at that time chief engineer of the Blue Ridge road, for the sum of $12.50, in the month of June, 1872, in Columbia. Deponent does not remember from whom he bought the balance of the scrip, but he bought it about the same time and for about the same price.
(Signed) W. B. GULICK.

Sworn to before me, this 20th Nov., 1874.
(Signed) G. D. BRYAN,
Special Master.

C. D. Melton, being sworn, says that the two certificates of $5,000 each*ed*, proved and held by him, were given to him in Columbia by the Blue Ridge R'd *R'd* Co. in April or May, 1872, for professional services rendered said Co. The balance of the scrip held and proved by him, to wit, $1,000, was also paid to him for professional services—$300 by Niles G. Parker, and the other $700 by other parties whom deponent does not remember.
(Signed) C. D. MELTON

Sworn to before me, this 20th Nov., 1874.
G. D. BRYAN,
Special Master.

D. Gambrill, being sworn, says that the scrip held and proved by him, to wit, one hundred and seventy-five dollars, he purchased from John R. Cochran for one hundred and sixty-seven dollars, some time in the early part of the year 1873, in Columbia, S. C.
(Signed) D. GAMBRILL.

Sworn to before me, this 20th Nov., 1874.
(Signed) G. D. BRYAN,
Special Master.

J. L. Neagle, being sworn, says that the scrip held and proved by him, amounting in the whole to one hundred and ninety-one thousand seven hundred and sixty dollars, came into his possession in the following manner, to wit: That in the month of March, 1872, he purchased of W. J. Whipper, Esq., five thousand dollars for twenty-five hundred dollars; that in the month of June, 1872, he purchased of Hon. J. J. Patterson, president of the B. R. R. Co., one hundred and five thousand dollars for thirty thousand dollars; that in the month of June or July, 1872, he purchased of Hon. Niles G. —— eighty thousand dollars for twenty-five thousand dollars; and that he purchased seventeen hundred & sixty dollars of Hon. W. H. Trescott for five hundred dollars; that all of the above scrip was purchased by him in the original issue except the amount purchased

of Mr. Trescott, and fifty-one thousand dollars of the scrip was afterwards exchanged with Hon. Niles G. Parker, State treasurer, for an equal amount of the Washington scrip; that all of the said purchases were made in the city of Columbia, S. C.

(Signed) J. L. NEAGLE.

Sworn to before me, this 20th Nov., 1874.

(Signed) G. D. BRYAN,
Special Master.

51 J. B. Palmer, president of the Charlotte, Columbia and Augusta R. R., being sworn, says: That the scrip proved and held by him, to wit, certificates Nos. 107, 108, & 109, for five thousand dollars each, and certificates Nos. 1, 2, 3, 4, & 124, for one thousand dollars each, amounting in the aggregate to twenty thousand dollars, was purchased by Wm. Johnson, as president of the said r'lr'd, of the late John D. Caldwell for the sum of fourteen thousand dollars on the 3d day of April, 1872, in the city of Columbia, and that the said scrip was purchased for the purpose of paying taxes on the said road.

(Signed) JOHN B. PALMER.

Sworn to before me, this 24th Nov., 1874.

(Signed) G. D. BRYAN,
Special Master.

James P. Low, one of the assignees of the Blue Ridge Railroad Company, a bankrupt, being sworn, says: That the scrip held and proved by him, amounting in the aggregate to the sum of ten thousand dollars, came into his possession as one of the assignees of the said company bankrupt, and is part of the estate, it being a portion of the scrip pledged to E. B. Wesley, of the city of New York, and which has been relinquished by him and turned over to the said assignees.

(Signed) JAMES P. LOW,
Assignee B. R. R. R. Co.

Sworn to before me, this 24th Nov., 1874.

(Signed) G. D. BRYAN,
Special Master.

F. S. Rodgers, being duly sworn, says: That scrip held and proved by him, to wit, Nos. 33 & 34, for five thousand dollars each, and Nos. 16, 21, 23, 26, and 27, for one hundred dollars each, of the original (printed) issue, and also Nos. 5409 to 5433, inclusive, and Nos. 5446 to 5452, inclusive, and Nos. 5459 to 5468, inclusive, and Nos. 5441, 5442, and 5456, for five dollars each, of what is known
52 as the Washington or Worthington issue, is held by him as collateral security to secure money loaned to one J. R. Cochran, of Anderson.

And further he knows not.

(Signed) F. S. RODGERS.

Sworn to before me, this 16th Dec., 1874.
(Signed) G. D. BRYAN,
Special Master.

C. H. Baldwin, being sworn, says: That the scrip held and proved by him, to wit, Nos. 31 & 32, for one thousand dollars each, of the original (printed) issue, and also thirty-six hundred and sixty-five dollars of Washington scrip, are held by him as collateral security for a loan of about seven hundred dollars made to Mr. H. G. Worthington, about the 10th day of May, A. D. 1873, and that the said scrip was lodged with him by the said H. G. Worthington.
(Signed) C. H. BALDWIN.

Sworn to before me, this 19th Dec., 1874.
(Signed) G. D. BRYAN,
Special Master.

Niles G. Parker, being sworn, says: That the scrip held and proved by him, to wit, $2,000, was purchased by him at different times and — various persons, in the city of Columbia, at seventy cents on the dollar; that he has had a large number of transactions in this scrip, and he cannot now state the persons from whom he obtained these identical pieces of scrip; that this scrip was purchased in the summer of 1872.
(Signed) NILES G. PARKER.

Sworn to before me, this 20th February, 1872.
(Signed) G. D. BRYAN,
S. Master.

53 U. S. OF AMERICA,
Fourth Circuit, District of South Carolina:

In Circuit Court. In Equity.

A. D. WILLIAMS, Complainant,
vs.
SOLOMON L. HOGE, Comptroller General, and others, Defendants.

Before me personally comes R. K. Scott, who, being duly sworn deposes and says: That he is the owner of eighteen thousand two hundred dollars of revenue bond scrip, to wit, Nos. 24, 25, 26, for $5,000 each; 71, 76, 77, 78, 79, 81, 82, 83, 84, 85, 86, 87, 88, 205, 225, 226, 266, 267, 571, 572, 573, 593, and 594, for $100 each, except No. 205, for $1,000, whereof he obtained ten thousand dollars of Niles G. Parker by paying for said Parker a note given by him to one Hardy Solomon for ten thousand dollars; of W. J. Whipper five thousand dollars on a loan made to him of two thousand and five hundred dollars; and three thousand and two hundred dollars of one H. H. Kimpton in payment of a debt owing by said Kimpton to deponent, amounting to two thousand two hundred and forty dollars.
(Signed) ROBERT K. SCOTT.

Sworn to before me, this 1st day of Dec., '74.
(Signed) W. J. WHIPPER,
Not. Pub.

In the Circuit Court U. S., South Carolina Dist., Fourth Circuit.

A. D. WILLIAMS *vs.* S. L. HOGE *et al.*

Personally appeared John B. Palmer and makes oath that he is the president of the Central National Bank, in the city of Columbia, in the State aforesaid; that this deponent was present in the city of New York and assisted in the negotiation by which E. B. Wesley became possessed of certain revenue bond scrip; that the negotiation took place in the early part of the year 1872; that a certain large amount of the bonds of the Blue Ridge Railroad Company had been lodged by the said corporation as security for loans made for the said company; that the State of South Carolina, to retire the bonds of the said company on which the guarantee of the State had been endorsed by an act of the Legislature, ordered the issue — revenue bond scrip; that the result of the negotiation between the president of the Blue Ridge Railroad Company, this deponent assisting, & the said E. B. Wesley was that the said E. B. Wesley advanced the sum of three hundred and twenty-six thousand nine hundred and twenty-five dollars, which amount applied to loans then due relieved from pledge two millions four hundred and eighty-five thousand dollars par value of said bonds; and that the said E. B. Wesley, the bonds so relieved having been delivered to the State treasurer, received of the said revenue bond scrip nine hundred and seventy-five thousand dollars par value of the scrip. Deponent says he knows of his own knowledge that the above-stated sum of money was applied to the payment of loans to the Blue Ridge Railroad Company, secured by the amount of bonds hereinbefore stated; and because of the payment of the said loan the bonds of the Blue Ridge railroad to secure the same were redeemed, delivered to the State treasurer; that in consequence of the payment of the said loans the said bonds were retired back to the State; and for the repayment to the said E. B. Wesley of the sums so paid by him he had no other security than the said scrip, out of which he was to be repaid the said sum of money, with such expenses as he would incur in & about realizing the same. Deponent says that the State treasurer was present when the said sums of money were paid by the said E. B. Wesley to relieve the said bonds so hypothecated; & the said bonds guaranteed as aforesaid by the State were then and there cancelled by the State treasurer in the presence of this deponent.

54

(Signed) JOHN B. PALMER.

Sworn to before me, this 24th Nov., 1874.
(Signed) G. D. BRYAN,
Special Master.

STATE OF SOUTH CAROLINA, *Richland County:*

Before me personally appeared C. J. Iredell, cashier of the Carolina National Bank of Columbia, who, being duly sworn, says:
55 That the certificates Nos. 239, 238, 240, 241, 242, 243, 244, 245, and 246, for one hundred dollars each, of Blue Ridge scrip held by him and proven before G. D. Bryan, special master, in the case of A. D. Williams *vs.* S. L. Hoge *et al.*, was lodged with the said Carolina National Bank by the Hon. T. J. Mackey, as collateral to secure a note of the said Hon. T. J. Mackey, in the sum of five hundred dollars, and dated the 27th day of April, A. D. 1872.

(Signed) C. J. IREDELL, *Cash.*

Subscribed and sworn to before me, this 30th day of Nov'r, A. D. 1874.

[SEAL.] (Signed) WILLIE JONES,
Notary Public.

U. S. OF AMERICA, *Fourth Circuit, District of South Carolina:*

In Circuit Court. In Equity.

A. D. WILLIAMS, Complainant,
vs.
SOLOMON L. HOGE, Comp. General, *et al.*, Defendants.

Before me personally comes John P. Southern, banker, of Columbia, S. C., who, being duly sworn, says: That he has twenty thousand dollars par value of revenue bond scrip, Nos. 13, 14, 15, & 16, for five thousand dollars each, deposited with him by C. P. Leslie; that deponent is informed and believes that said Leslie received it of Thomas Steers, who was a contractor on the said Blue Ridge railroad, in payment for a blooded race-horse, valued at six thousand dollars.

(Signed) J. P. SOUTHERN.

Sworn to before me, this the 10th day of December, 1874.

(Signed) J. E. HAGOOD,
C. C. C. U. S., Dist. S. C.

UNITED STATES OF AMERICA, *Southern District of New York:*

Clarence L. Vanzant, being duly sworn, deposes and says: That he is the vice-president and manager of the American Bank
56 Note Company of New York; that under the order of Niles G. Parker, treasurer of the State of South Carolina, dated 30th March, 1872, the American Bank Note Company prepared revenue bond scrip for said State as follows, viz:

10,000	imp's	$20 A,	20 B,	50 A,	50 B,	Nos. 1 *to* 10000.
10,000	"	$5 A,	5 B,	10 A,	10 B,	" 1 *to* 10000.
16,666	"	$1 A,	1 B,	2 A,	2 B,	" 1 *to* 16666.
1	"	$2 A,	2 B,	No. 16667,		

making in all the amount of eighteen hundred thousand dollars ($1,800,000).

Of the above amount there was delivered to E. B. Wesley the following impressions, viz:

6,000	imp's	$20	A, 20 B, 50 A, 50 B,	Nos.	1	@	6000.
5,000	"	$5	A, 5 B, 10 A, 10 B,	"	1	@	5000.
2,500	"	$1	A, 1 B, 2 A, 2 B,	"	1	@	2500,

making in all the amount of ten hundred and five thousand dollars ($1,005,000).

For this amount Mr. Wesley surrendered to deponent original scrip as follows, viz:

4	notes of	$5,000	ea.,	Nos.	29	@	32,	inclusive.
48	"	"	do.	"	53	@	100	"
25	"	"	do.	"	110	@	134	"
46	"	"	do.	"	169	@	214	"
77	notes of	$5,000	ea.,	Nos.	218	@	294,	inclusive.
4	"	"	$1,000	"	26	@	29	"
1	"	"	do.	"	32,			

which original scrip deponent cancelled.

The balance of the revenue bond scrip printed by the American Bank Note Company is now in the possession of said company.

(Signed) C. L. VANZANT.

New York, 31 Oct., 1874.

Subscribed in my presence and sworn to before me by the
57 above-named Clarence L. Vanzant, this 31st day of October, A. D. 1874.

Witness my hand and official seal.

[SEAL.] CHARLES NETTLETON,
Commissioner for South Carolina in New York,
117 *Broadway, New York City.*

Subscribed and sworn to this 16th day of November.

_____, _____.
Register in Bankruptcy, Southern Dist. of N. Y.

N. G. Parker, being sworn, says: I was treasurer of the State of So. Ca. in 1872. I remember the act of the Legislature providing for the issue of revenue bond scrip. I caused to be issued under that act the amount of scrip provided by act. I faithfully and fully complied with all the requirements of that act in the issue of the scrip. In consideration of the issue of that scrip I had returned to me, as State treasurer, all the bonds of the Blue Ridge R. R. Co. guaranteed by the State, except six hundred thousand dollars, which were in the hands of the financial agent of the State, and three or four other bonds which were not returned, of a thousand dollars each, supposed to be in the hands of the trustees.

I was aware that a portion of the bonds were redeemed from hypothecation for loans made to the B. R. R. R. Co., but all of the bonds, except those above mentioned, were returned to me by the president of the B. R. R. R. Co. The bonds so surrendered to me

were cancelled, and were left by me on file in the treasury office when I left that office.

The whole of the $1,800,000 of scrip was issued, less the *pro rata* amount necessary to take up the four bonds above mentioned. By the issue of the scrip the State was relieved of its guarantee upon the whole of the bonds.

The first or original issue of this scrip was printed in Columbia. There was afterwards an arrangement made by me & J. J. Patterson, Pres. B. R. R. R. Co., with the American Bank Note Co. to engrave the scrip. It was arranged between the bank note Co. and myself & J. J. Patterson, Pres. B. R. R. R. Co., that Mr. Wesley should be allowed to exchange the printed scrip held by him for the engraved scrip. I know of no other person who exchanged scrip. As
58 State treasurer I had no occasion to inform myself of the parties holding the bonds or to whom hypothecated, but only to issue the scrip when the bonds were surrendered to me. The surrender of the bonds was made to me very soon after the act was passed.

At the time the bonds were surrendered to me and I issued the scrip there was no intimation to me from any quarter that the State intended to question its liability for that scrip. It was given out by me and received with the assurance that it was a valid obligation on the part of the State.

I have spoken of original scrip printed in Columbia & of the scrip engraved by the Am. Bank Note Co., of New York; there was other scrip printed in Washington by my order. This last scrip was printed on account of the Am. B'k Note Co. having been enjoined from issuing the scrip engraved by them at the suit of Bangs *et al.*, in New York. This scrip was intended to be a substitute for the scrip engraved by the Am. Bank Note Co., as it was supposed that that scrip could not be issued.

I suppose that there was upwards of $200,000 of this scrip printed and issued & exchanged by me. I took the original scrip up. In considering the validity of the scrip, the amount printed in Columbia was no more than I was authorized to issue under the act of the Legislature, and the holders of that scrip are unquestionably, in my opinion, the persons who hold the valid obligation of the State. Include among these Mr. Wesley for the amount of original scrip which he left with the Am. B'k Note Co. for the like amount of engraved scrip. I do not know of any over-issue of this scrip.

For all of the Washington scrip that I issued original scrip was surrendered to me.

(Signed) NILES G. PARKER.

Sworn to before me, this 5 March, 1875.

(Signed) G. D. BRYAN,
Special Master.

Rec. 228–3.

United States Circuit Court, District of South Carolina, Fourth Circuit.

A. D. WILLIAMS *vs.* SOLOMON L. HOGE *et al.*

The Hon. J. J. Patterson, being duly sworn, says: I was
59 president of the Blue Ridge Railroad Company from January, 1872, till the *the* road was put into bankruptcy. When I became president the company had no bonds guaranteed by the State; they were all in the hands of creditors. There was not a cent in the treasury. There was nothing of value in the treasury that I knew of.

I was president of the company when the revenue bond scrip was issued. It was delivered to the company by the State treasurer. The whole of it was issued to the company except some three or four thousand dollars.

The first scrip exchanged for bonds was with the banks in Columbia. I do not remember the amount now, but I made a return to the court in Columbia in the case of McKay *et al.* I also got bonds from A. D. Williams & Co., of New York, to the amount of two million six hundred and twenty-five thousand dollars ($2,625,000) hypothecated for a loan of three hundred thousand dollars ($300,000). I borrowed this money from Mr. Wesley, of New York, to take up this loan, and gave him nine hundred and seventy-five thousand dollars ($975,000) of the scrip to secure him. I also gave Mr. Wesley thirty thousand dollars ($30,000) more of the scrip to secure a loan of eighteen thousand dollars ($18,000) which I used to buy bonds of the State of Tennessee, to purchase the interest of the said State in the Blue Ridge Railroad Company in Tennessee. I am not positive about the figures. I also got four hundred and seventeen thousand dollars ($417,000) of the bonds from A. D. Williams, of New York, which he held as a purchaser at a public sale from Mr. Iseman, who had made a loan to the company of twenty-five thousand dollars ($25,000) and held these bonds to secure the same. I hunted all the bonds of the company up, and all of them were in the hands of creditors except three or four. Six hundred thousand dollars ($600,000) were in the hands of the financial agent of the State, in New York.

The three hundred thousand dollars ($300,000) borrowed from A. D. Williams & Co. was expended by Mr. Cameron as financial agent, except about twenty-five thousand dollars which I used to pay obligations of the company.

During the time I was president of the road there was some work done on the road, and up to the time of the issuing the injunction restraining the receiving of the scrip. There was at least twenty thousand dollars ($20,000) of work done on the road while I was president.

60 The amount of work done by Mr. Steers from 1869 up to the time he stopped amounted to several hundred thousand dollars, a portion of which is unpaid.

Examined:

When I say the bonds were held by creditors, I mean that they were held by persons who made loans to the company and held these bonds as collateral, or who held them for debts due from the company.

By the issue of this scrip all the bonds guaranteed by the State were retired and cancelled, except the six hundred thousand dollars ($600,000) in the hands of the financial agent, and three or four as above mentioned.

JOHN J. PATTERSON.

Subscribed & sworn to before me, this 17 April, 1874.

G. D. BRYAN,
Special Master.

UNITED STATES OF AMERICA, *State of New York:*

[SEAL.] The people of the State of New York, by the grace of God free and independent, to all to whom these presents shall come, Greeting:

Know ye that we, having examined the records and files of our court of common pleas for the city and county of New York, do find there remaining of record a certain order, in the words and figures following, to wit:

At a special term of the court of common pleas for the city and county of New York, held at the court-house in the said city and county on the 14th day of June, A. D. 1872.

Present, the Hon. J. F. Daley, judge.

ANSON BANGS
against
THE BLUE RIDGE RAILROAD COMPANY IN SOUTH CAROLINA, EDWARD B. WESLEY, JOHN J. PATTERSON, THOMAS STEERS, & THE AMERICAN BANK NOTE COMPANY, and others.

An order having been made in this cause on the 30th day of April last enjoining the defendants, as therein particularly set forth, until the further order of the court, and requiring the defendants to show cause why such injunction should not be con-
61 tinued and made perpetual, and a motion for the continuance of said injunction pursuant to said order to show cause coming on to be heard, and counsel for the defendants, The Blue Ridge Railroad Company in South Carolina and Edward B. Wesley, having been heard in opposition to said motion, and counsel for the plaintiff having been heard in support of said motion: On reading and filing the said order to show cause, and the complaint and affidavit on which said order was founded, and on reading and filing the affidavits of the defendants, Wesley, Palmer, & Steers, and an affidavit of L. D. Childs, and the demurrers of the defendants, The Blue Ridge Railroad Co'y and Niles G. Parker, State treasurer, and the answer of the defendant, Edward B. Wesley, read in opposition to said motion, and due deliberation having been had, it is now or-

dered that, upon the approval and filing of the bond hereinafter ordered, the said temporary injunction be, and the same is, so far modified as to authorize and permit the said American Bank Note Company to deliver to and the said defendant, Edward B. Wesley, to take and receive, such amount of the newly printed scrip in the complaint mentioned as shall be equivalent to the scrip now held by him as security for advances made to the said Blue Ridge Railroad Company in South Carolina, and to deal with such scrip in such manner as he may be entitled to under his contract with the said company, set forth in his answer to the complaint in this action. It is further ordered that the said temporary injunction be, and the same is hereby, continued so far as regards the residue of the scrip in the complaint mentioned not herein authorized to be delivered to the said defendant Wesley, as against the said defendant The Blue Ridge Railroad Company in South Carolina, its officers, agents, and servants. And it is further ordered that the said temporary injunction be continued as against the said defendant, Edward B. Wesley, as to any surplus of said scrip, and the proceeds of sales of said scrip which may remain in his hands after the satisfaction of all his claims for advances made by him to the said Blue Ridge Railroad Company in South Carolina, and the said defendant Wesley shall execute and file with the clerk of this court a bond, with sufficient sureties, to be approved by the court, in the sum of one hundred and thirty-five thousand dollars, conditioned to abide by the final judgment of this court in this action so far as the said judg-
62 ment may direct said defendant Wesley to account for and pay over and deliver any part of the proceeds of sales of such scrip, or the balance of unsold scrip.

Ent.: J. F. D., *J. C. C. P.*

All which we have caused by these presents to be exemplified, and the seal of our said court to be hereunto affixed.

Witness Hon. Hamilton W. Robinson, judge and presiding judge of our said court of common pleas for the city and county of New York, at the court-house in the city of New York, the 24th day of October, in the year of our Lord one thousand eight hundred and seventy four, and in the ninety-ninth year of the Independence of the United States.

[SEAL.] NATH. JARVIS, JR., *Clerk.*

I, Hamilton W. Robinson, judge and presiding judge of the court of common pleas for the city and county of New York, do hereby certify that Nathaniel Jarvis, Junior, whose name is subscribed to the preceding exemplification, is the clerk of the said court of common pleas, duly appointed and sworn, and that full faith and credit are due to his official acts. I further certify that the seal affixed to the said exemplification is the seal of the said court of common pleas, and that the attestation thereof is in due form of law.

Dated New York, Oct'r 24, 1874.

[SEAL.] H. W. ROBINSON,
Judge of N. Y. Com. Pleas.

STATE OF NEW YORK, }
City and County of New York, } ss:

I, Nathaniel Jarvis, Jr., clerk of the court of common pleas for the city and county of New York, do hereby certify that Hamilton W. Robinson, whose name is subscribed to the preceding certificate, is a judge and the presiding judge of the court of common pleas for the city and county of New York, duly elected and qualified, and that the signature of said judge to said certificate is genuine.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, this 24th day of Oct'r, 1874.

[SEAL.] NATH. JARVIS, JR., *Clerk.*

63 *Schedule of Numbers & Character of Scrip Proved.*

1st. A. D. Williams. Original scrip certificates for one thousand dollars each, and numbered as follows:

From 54 to 60, inclusive.
" 127 to 129, "
" 196 to 200, "
From 44 to 48, inclusive.
" 171 to 181, "
" 191 to 192, " and the numbers 36, 65, 123, 137, 206, 203, & 204.

Certificates for five thousand dollars each, numbered as follows: From 155 to 168, inclusive; from 3 to 5, inclusive; and the numbers 1, 7, 9, 47, 146, 148, 149, 217.

Total, $165,000.

2nd. Edward B. Wesley. American Bank Note Company scrip certificates A & B for fifty dollars each, and numbered as follows:

From 1 to 6000, inclusive.

Certificates A & B for twenty dollars each, numbered from 1 to 6000, inclusive.

Certificates A & B for ten dollars each, numbered as follows:
From 101 to 1001, inclusive.
" 1003 to 1101, "
" 1201 to 5000, "

Certificates A & B for five dollars each, and numbered as follows:
From 101 to 1001, inclusive.
" 1003 to 1101, "
" 1201 to 5000, " and the numbers 8, 9, 36, 63, 64, &66.

Certificates B for five dollars each, and numbered 3 & 61.

Certificates A & B for two dollars each, and numbered as follows:
From 1 to 800, inclusive.
" 1001 to 2000, "

Certificates A & B for one dollar each, and numbered as follows:
From 1 to 800, inclusive.
" 1001 to 2000, "

Total, $994,870.

64 3rd. J. Fisher, trustee. Original scrip certificates for one thousand dollars each, and numbered as follows:

From 37 to 39, inclusive.
" 61 to 64, "
" 152 to 162, "
Total, $18,000.

4th. John B. Palmer, president of the Central National Bank. Original scrip—

Certificates for five thousand dollars each, numbered 22, 51, & 52.

Certificates for one thousand dollars each, and numbered from 104 to 121, inclusive, and the numbers 33, 40, 130, 131.

Total, $37,000.

5th. R. & W. C. Swaffield. Original scrip certificates for one thousand dollars each, numbered 125 & 126.

Certificates for one hundred dollars each, numbered as follows:

From 1187 to 1192, inclusive.
" 1208 to 1211, "
Total, $3,000.

6th. J. P. Southern. Original scrip certificates for five thousand dollars each, numbered from 150 to 153, inclusive, and numbers 19, 20, 295, & 296.

Certificates for one thousand dollars each, and numbered as follows:

From 144 to 151, inclusive.
" 132 to 135, "
" 138 to 141, "
" 96 to 103, "
" 17 to 19, " and the numbers 202, 122, 42, 41, 34, 35.

Certificates for one hundred dollars each, numbered 17, 18, 19, 94, & 95.

Total, $70,500.

7th. Geo. W. Waterman. Certificates of original scrip for one thousand dollars, numbered 73.

Certificates of Washington issue for ten dollars each, numbered from 9651 to 9694, inclusive.

Total, $1,440.

8th. W. B. Gulick. Original scrip certificates for one thousand dollars each, numbered from 74 to 77, inclusive, and number 95.

65 Certificates of one hundred dollars each, numbered from 28 to 31, inclusive.

Total, $5,400.

9th. C. D. Melton. Original scrip certificates for five thousand dollars each, numbered 135 & 136.

Certificates for one hundred dollars each, numbered from 41 to 44, inclusive, and the numbers 33, 35, 47, 49, 51, & 53.

Total, $11,000.

10th. D. Gambrill. Certificates of original scrip for one hundred dollars each, numbered 25.

Certificates of Washington issue, numbered 5445, 5453, 5454, 5455, 5439, 5440, 5443, 5444, 5407, 5408, 5402, 3040, 3039, 3044, 3043, for five dollars each.

Total, $175.

11th. J. L. Neagle. Original scrip certificates for five thousand dollars each, and numbered—

From 101 to 106, inclusive.
" 35 to 37, " and the numbers 10, 12, 44, 46, 48, 50, 137, 144, 216, & 297.

Certificates for one thousand dollars each, numbered—

From 78 to 94, inclusive.
" 20 " 22, "
" 15 " 18, " and numbers 5, 6, 8, 11, 13, 194, 194, & 195.

Certificates for one hundred dollars each, numbered—

From 96 to 106, inclusive.
" 89 " 91, "
" 61 " 64, "
" 56 " 58, "
" 13 " 15, "
" 138 " 144, "
" 178 " 182, "
" 207 " 210, "
" 218 " 220, "
" 222 " 224, "
" 247 " 253, "
" 271 " 277, "
" 379 " 383, "
" 564 " 570, "
" 583 " 591, "
From 597 to 599, inclusive.
66 " 1177 " 1186, "
" 1193 " 1200, " and the numbers 5, 34, 40, 45, 50, 54, 66, 80, 175, 186, 203, 212, 213, 226, 231, 255, 257, 258, 268, 269, 578, 595, 602, 603, 621, 622, 1203, & 1207, Washington issue.

Certificates for ten dollars each, numbered—

From 751 to 5500, inclusive.
" 6001 " 6108, "
" 6116 " 6165, "
" 6167 " 6182, "

Certificates for five dollars each, numbered—

From 1007 to 1016, inclusive.
" 3685 " 3687, "
" 3937 " 3940, "
" 3945 " 3947, "
" 3955 " 3957, "
" 3959 " 3963, "
" 3975 " 3979, "
" 4317 " 4324, "
" 4338 " 4340, "
" 4346 " 4377, "
" 4393 " 4396, "
" 4409 " 4446, "
" 4465 " 4480, "

From 4485 to 4500, inclusive.
" 3917 " 3919, "
" 3849 " 3863, "
" 3873 " 3876, "
From 4001 to 4200, inclusive.
" 2301 " 2400, "
" 3603 " 3628, "
" 3513 " 3592, "
" 4201 " 4264, "
" 3501 " 3504, "
" 3593 " 3600, "
" 3819 " 3822, "
" 3920 " 3936, " and the numbers 5003, 5007, 5015, 4333, 4341, 4342, 4343, 3682, 3683, 3693, 3694, 3696, 3949, 3950, 3952, 3972, 3969, 3964, 3869, 3870, 3865, 3845, 4483, 4344, 3632, 3601, 3681, 3965, 3967, 3971.

Total, $191,760.

67 12th. John B. Palmer, as president of the Columbia, Augusta & Charlotte r'd r'd, original scrip certificates for five thousand dollars each, numbered from 107 to 109, inclusive.

Certificates for one thousand dollars each, numbered from 1 to 4, inclusive, and the number 124.

Total, $20,000.

13th. Jas. P. Low, assignee, American Bank Note Co. scrip—

Certificates A & B for ten dollars each, and numbered—
From 1 to 20, inclusive.
From 22 to 23, inclusive.
" 25 to 58, "
" 60 " 67, "
" 68 " 100, "
" 1102 " 1200, "

Certificates A for ten dollars, numbered 24.

Certificates A & B for five dollars each, numbered—
From 17 to 35, inclusive.
" 37 " 60, "
From 67 to 100, inclusive.
" 1102 " 1200, " and the numbers 1, 2, 4, 6, 7, 10, 15, 62, & 65.

Certificates A for five dollars each, numbered 3, 11, 61.

Certificates B for five dollars, numbered 5.

Certificates A & B for two dollars each, numbered—
From 801 to 1000, inclusive.
" 2001 " 2500, "

Certificates A & B for one dollar each, numbered—
From 801 to 1000, inclusive.
" 2001 " 2500, "

Total, $10,000.

14th. F. S. Rodgers. Original scrip certificates for five thousand dollars each, numbered 33, 34.

Certificates for one hundred dollars each, numbered 16, 21, 23, 26, & 27.

Washington scrip certificates for five dollars each, numbered—
From 5409 to 5433, inclusive.
From 5446 to 5452, inclusive.
" 5459 " 5468, " and numbers 5441, 5442, & 5456.
Total, $10,725.

68 15th. C. H. Baldwin. Original scrip certificates for one thousand dollars each, numbered 31 & 32.
Washington scrip certificates for ten dollars each, numbered—
From 501 to 527, inclusive.
" 529 " 533, "
" 563 " 608, "
" 617 " 650, "
" 653 " 669, "
" 699 " 724, "
" 733 " 736, "
" 745 " 750, " and the numbers 534, 535, 537, 539, 540, 544, 551, 554, 561, 687, 688, 691, 692, 729, 730.
Certificates for five dollars each, numbered—
From 3022 to 3033, inclusive.
From 3045 to 3052, inclusive.
" 3057 " 3068, "
" 3077 " 3080, "
" 3117 " 3125, "
" 3129 " 3132, "
" 3141 " 3152, "
" 3173 " 3176, "
" 3185 " 3188, "
" 3193 " 3200, "
" 3213 " 3228, "
" 3237 " 3264, "
" 3281 " 3288, "
" 3290 " 3292, "
" 3305 " 3308, "
" 3360 " 3365, "
" 3377 " 3399, "
" 3400 " 3478, "
" 3480 " 3500, " and the numbers 3073, 3074, 3083, 3084, 3107, 3108, 3137, 3138, 3155, 3156, 3161, 3162, 3169, 3170, 3041, 3042, 3179, 3180, 3301, 3302, 3311, 3312, 3347.
Total, $5,665.

16th. Niles G. Parker. Original scrip certificates for one thousand dollars, numbered 164.
Certificates for one hundred dollars each, numbered from 187 to 190, inclusive, and the numbers 199, 215, 592, 634, 576, 577.
Total, $2,000.

69 17th. R. K. Scott. Original scrip certificates for five thousand dollars each, numbered 24, 25, & 26.
Certificates for one thousand dollars, numbered 205.
Certificates for one hundred dollars each, numbered—
From 76 to 79, inclusive.
" 81 " 88, "

From 571 to 573, inclusive and the numbers 71, 225, 226, 266, 267, 593, & 594.

Total, $18,200.

18th. C. J. Iredell, cashier. Original scrip certificates for one hundred dollars each, numbered from 238 to 246, inclusive.

Total, $900.

19th. J. P. Southern, agent. Original scrip certificates for five thousand dollars each, numbered from 13 to 16, inclusive.

Total, $20,000.

G. D. BRYAN,
Special Master.

70 *Statutes of the State of South Carolina Relating to the Blue Ridge Railroad Company, its Bonds, and the Scrip in Question, and in any Manner Affecting the Case.*

An act to authorize additional aid to the Blue Ridge Railroad Company in South Carolina.

Whereas the General Assembly of the State of South Carolina, by an act passed the twenty-first day of December, in the year of our Lord one thousand eight hundred and fifty-four, and entitled "An act to authorize aid to the Blue Ridge Railroad Company in South Carolina," provided "that the faith and funds of the State of South Carolina be, and the same are hereby, pledged to secure the punctual payment of any contracts which shall be made for borrowing money by the Blue Ridge Railroad Company in South Carolina, from any person or persons, company or companies, corporation or corporations, to any amount not exceeding one million of dollars, either in the United States or Europe; and when such contracts shall be made by bond or bonds signed by the president of the company, under its seal, and countersigned by the secretary or treasurer thereof, it shall be the duty of the comptroller general to endorse thereon that the faith and funds of the State are pledged to the faithful performance of said contract or contracts, as it respects the punctual payment both of the principal and interest, according to the terms of the said contract or contracts: Provided, That certain conditions particularly recited in section seven of said act be first executed," and the said Blue Ridge Railroad Company in South Carolina secured the said endorsement by a mortgage of all their property in the States of South Carolina, Georgia, North Carolina, and Tennessee, duly executed and recorded; and whereas the comptroller general of the State has not endorsed any of the bonds issued by the said Blue Ridge Railroad Company in South Carolina, under the authority of said act; and whereas the conditions imposed upon said endorsement by said section seven have become impos-
71 sible and injudicious, while the necessity of the completion of said road has become more urgent in the interest of the State; therefore—

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, Without reference to

the said provisions and conditions, whenever any contract or contracts may be made by the president of the said company, under its seal, and as provided by said act, and not exceeding one million of dollars, it shall be the duty of the comptroller general to endorse thereon that the faith and funds of the State are pledged to the faithful performance of the said contract or contracts, as respects the punctual payment both of the principal and interest, according to the terms of the said contract or contracts: Provided, That so much of said issue as may be necessary, not exceeding three hundred thousand dollars, shall be applied to the redemption of the present bonded debt of the said company.

SEC. 2. That the faith and the funds of the State of South Carolina be, and the same are hereby, pledged to secure the punctual payment of any contracts which shall be made by the Blue Ridge Railroad Company in South Carolina, from any person or persons, corporation or corporations, to an additional amount not exceeding three millions of dollars, either in the United States or Europe; and when such contracts shall be made by bond or bonds, signed by the president of the said company, under its seal, and countersigned by the secretary or treasurer thereof, it shall be the duty of the comptroller general of this State to endorse thereon that the faith and funds of the State of South Carolina are pledged to the faithful performance of the said contract or contracts, as it respects the punctual payment both of the principal and interest, according — the terms of said contract or contracts: Provided, That the interest made payable thereon shall not exceed seven per cent. per annum, in quarterly or half yearly payments. And that as soon as the comptroller general shall have made any such endorsement on any such contract, the whole estate, property, and funds in the State of South Carolina, Georgia, North Carolina, and Tennessee, which the said company may then possess, or shall afterwards acquire, shall thenceforth stand pledged and mortgaged to the State, without any further act or deed on the part of the company, for the faithful and
72 punctual performance on the part of said company of such contract in priority and preference of any other debt which the said company may hereafter create or incur: And further provided, That the said bonds or any part thereof shall not be used unless upon the express condition that upon application to the Congress of the United States, or to private capitalists, the amount of three millions of dollars in currency, or so much of that sum as may be necessary, shall be furnished in exchange or upon the security of said bonds.

SEC. 3. The said company shall have the right to increase the board of directors to fifteen members, of which board the Governor of the State shall be *ex officio* a member; that there shall be an additional officer to be known as vice-president, whose duties and salary shall be prescribed by the board; and that in all future meetings of the stockholders of said company the Governor of the State is hereby authorized to represent the stock of the State either in person or by the appointment of proxies.

SEC. 4. The Governor of the State is hereby authorized to advance

to the said company twenty thousand dollars from the treasury of the State, to repair and keep in working condition the said road, if such amount should be necessary, in his opinion.

SEC. 5. Be it further enacted, That all provisions of the charter of the Blue Ridge Railroad Company, and all acts or parts of acts inconsistentwith this act be, and the same are hereby, repealed.

In the Senate — House the fifteenth day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

L. BOOZER,
President of the Senate.
FRANKLIN J. MOSES, JR.,
Speaker House of Representatives.

Approved:
ROBERT K. SCOTT, *Governor.*

An act to promote the consolidation of the Greenville and Columbia Railroad Company and the Blue Ridge Railroad Company.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in
73 General Assembly, and by the authority of the same, That the act entitled "An act to amend the charter of the Greenville and Columbia Railroad Company," passed by the General Assembly of this State on the 20th day of December, 1853, be, and the same is hereby, re-enacted, with the following amendments or alterations:

SEC. 2. That for the purpose of extending or building or constructing a railroad from Greenville all of the provisions of sections 9, 10, 11, and 12 of an act entitled "An act to authorize the formation of the Greenville and Columbia Railroad Company," passed on the 15th day of December, in the year 1845, be, and the same are hereby, re-enacted, with the following amendments or alterations:

SEC. 3. That the Greenville and Columbia Railroad Company is authorized, so far as practicable, to purchase, connect, or unite with any connecting railroad or railroads, and especially to extend railroad communication to Knoxville, Tennessee, and to Asheville, in North Carolina: Provided, That if the Greenville and Columbia Railroad Company shall fail to construct and finish the said railroad, including such other railroad or railroads as it may unite with or acquire, to the line between this State and North Carolina and Tennessee, within five years from the final passage of this act, the right to further construct said railroad to Knoxville and to Asheville shall cease, and the time limited therefor is hereby extended five years from the final passage of this act; but this limitation shall not impair nor affect any rights of any railroad or railroads acquired, united with, or constructed, so far as acquired, united with, or constructed, at the end of the time hereby limited, nor shall anything contained in this act impair or limit the right or privilege to consolidate or unite with any railroad or railroads under any general railroad law or laws; that the said Greenville and Columbia Railroad Company shall have power to construct and build, upon the most practicable route, a branch of their road from some point on

the line of their road at or east of Anderson Court-House and west of the Saluda river to Aiken or Hamburg, and there connect with any railroad incorporated under the laws of this State; and also shall have the power to construct and build, upon the most practicable route, a branch of their road from Abbeville Court-House
74 to the Savannah river, in the direction of Washington, Georgia; also, that the said company shall have the power to construct and build, upon the most practicable route, a railroad from Spartanburg Court-House to the North Carolina line, in the direction of Asheville or Rutherfordton, North Carolina.

SEC. 4. That, in view of the consolidation of the Greenville and Columbia Railroad Company and the Blue Ridge Railroad Company, the action of the said Blue Ridge Railroad Company in making the bonds authorized under the act of September 15, 1868, and of the comptroller general of the State in endorsing the same, and thereby pledging the faith and funds of the State to the payment of said bonds, is hereby ratified and confirmed; and that the making and execution by said Blue Ridge *Ridge* Railroad Company and said other companies of the mortgage aforesaid to Henry Clews, Henry Gourdin, and George S. Cameron, to secure the payment of the bonds aforesaid, is also ratified and confirmed; and said mortgage is declared to be a lien prior to that of the State on all property described in said mortgage, and on the entire line of the road aforesaid, and on all the properties of said several companies, or which they, or either of them, may hereafter acquire; but nothing in this act contained shall be construed to divest the State of its lien on the estate and property of the said several railroad companies, or of either of them, for its endorsement of the bonds aforesaid, but said lien is postponed to, and declared to be subject and subordinate to, that of the mortgage, hereinbefore mentioned, to Henry Clews, Henry Gourdin, and George S. Cameron, trustees.

SEC. 5. That all statutory or other liens or lien, encumbrances or encumbrance, equities or equity, except the mortgage encumbrances now upon the property, assets, effects, rights, and franchises of said Greenville and Columbia Railroad Company, or any part thereof, and also except the mortgage herein authorized, shall be, and are, or is hereby, made subsequent to the mortgage encumbrances now in existence thereon, and subsequent to the one herein authorized, so that the holders of the bonds secured by said mortgages, or either of them, shall have a lien and security as between each other, according to the time said mortgages have been, or shall be, recorded, and a prior lien to all other liens or encumbrances whatsoever, any law or laws to the contrary notwithstanding.

SEC. 6. The following clause in section 2 of the act of Sep-
75 tember 15, 1868, to authorize additional aid to the Blue Ridge Railroad Company, in South Carolina, viz: "And further provided, That the said bonds, or any part thereof, shall not be used, unless upon the express condition that upon application to the Congress of the United States, or to private capitalists, the amount of three millions of dollars in currency, or so much of that sum as

may be necessary, shall be furnished in exchange, or upon the security of said bonds," is hereby repealed.

SEC. 7. That after the consolidation of the Greenville and Columbia Railroad Company with the Blue Ridge Railroad Company, the bonds now held by the Greenville and Columbia Railroad Company and the Blue Ridge Railroad Company shall be endorsed by the consolidated company.

SEC. 8. That if said consolidated company shall fail to pay its interest on its guaranteed debt for two years, it shall be the duty of the comptroller general of the State, and he shall have the power, to take immediate possession of said road, with all its appurtenances, and lease the same to responsible parties, who shall have control thereof until the General Assembly shall, by law, provide for the settlement of the affairs of said company in the interest of all its creditors.

SEC. 9. That the said Greenville and Columbia Railroad Company and the Blue Ridge Railroad Company shall forever continue and be a body corporate, capable of suing and being sued in any court of competent jurisdiction.

SEC. 10. That all acts or parts of acts inconsistent with this act, or any part thereof, are, for the purposes of this act, but for no other purpose, hereby amended, modified, or repealed, as the case may require, so as to conform to the true intent and meaning of this act.

SEC. 11. This act shall take effect immediately.

Approved March 6, 1871.

An act to relieve the State of South Carolina of all liability for its guaranty of the bonds of the Blue Ridge Railroad Company, by providing for the securing and destruction of the same.

Whereas the State of South Carolina has, by and in pursu-
76 ance of the provisions of an act approved the fifteenth day of September, A. D. 1868, entitled "An act to authorize additional aid to the Blue Ridge Railroad Company in South Carolina," endorsed a guaranty of the faith and credit of the State on four millions of dollars of bonds, issued by the said Blue Ridge Railroad Company, comprehending the Blue Ridge Railroad Company in South Carolina, the Blue Ridge Railroad Company in Georgia, the Tennessee River Railroad Company in North Carolina, the Knoxville and Charleston Railroad Company in Tennessee, and the Pendleton Railroad Company in South Carolina, for the purpose of aiding the speedy completion of the said railroad, which bonds are liable for the debts of the said railroad companies; and whereas the present condition of the finances of the State and of said companies is such as to make the further continuance of said bonds in the market inexpedient and unadvisable and a serious injury and prejudice to the credit of the State; and whereas the existence of the said four millions of dollars of bonds so guaranteed creates a large liability upon the part of the State, which the treasurer may be required to meet at unforeseen and inopportune times; and whereas the liability of the State, on account of such guaranty, should be faithfully met and discharged: Therefore, in order to secure the recovery and destruction

of the bonds and coupons of the said company issued under and in pursuance of the provisions of the aforesaid act, now pledged in the city of New York and elsewhere, and to relieve the State of all liabilities whatsoever by reason of its endorsement and guaranty of said bonds:

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina now met and sitting in General Assembly, and by the authority of the same, That the State treasurer is hereby directed, with the consent in writing of the president of the Blue Ridge Railroad Company in South Carolina, to require the financial agent of the State, in the city of New York, immediately to deliver to the State treasurer all the bonds of the Blue Ridge Railroad Company, endorsed and guaranteed by the State of South Carolina, which are now in his possession and held by him as collateral security for advances made by the said financial agent, by the order of the financial board, to the Blue Ridge Railroad Company; and upon the delivery of said bonds the treasurer is
77 hereby required to cancel the same, in the manner hereinafter directed; and the said Blue Ridge Railroad Company shall thereupon be discharged from all liability to the State on account of such advances.

SEC. 2. That upon the surrender by the said company to the State treasury of the balance of the said four millions of dollars of bonds, issued by the said Blue Ridge Railroad Company, and guaranteed by the State, the State treasurer is hereby authorized and required to deliver to the president of the Blue Ridge Railroad Company in South Carolina treasury certificates of indebtedness (styled revenue bond scrip) to the amount of one million eight hundred thousand dollars, the said certificates to be executed in the manner hereinafter directed; and if the said company shall not be able to deliver all of said bonds at one time, the treasurer is authorized and required to deliver to the said president such amount of such treasury certificates as shall be proportioned to the amount of bonds delivered.

SEC. 3. That to carry out the purposes of this act, the State treasurer is hereby authorized and required to have printed, or engraved on steel, as soon as practicable, treasury certificates of indebtedness, to be known and designated as revenue bond scrip of the State of South Carolina, in such form, and of such denomination as may be determined on by the State treasurer and the president of the Blue Ridge Railroad Company in South Carolina to the amount of one million eight hundred thousand dollars; which revenue bond scrip shall be signed by the State treasurer, and shall express that the sum mentioned therein is due by the State of South Carolina to the bearer thereof, and that the same will be received in payment of taxes and all other dues to the State, except special tax levied to pay interest on the public debt.

SEC. 4. That the faith and funds of the State are hereby pledged for the ultimate redemption of said revenue bond scrip, and the county treasurers are hereby required to receive the same in payment of all taxes levied by the State, except in payment of special

tax levied to pay interest on the public debt, and the State treasurer and all other public officers are hereby required to receive the same in payment of all dues to the State; and still further to provide for the redemption of said revenue bond scrip an annual tax of three mills on the dollar, in addition to all other taxes, on
78 the assessed value of all taxable property in the State, is hereby levied, to be collected in the same manner and at the same time as may be provided by law for the levy and collection of the regular annual taxes of the State; and the State treasurer is hereby required to retire, at the end of each year from their date, one-fourth of the amount of the treasury scrip hereby authorized to be issued, until all of it shall be retired, and to apply to such purpose exclusively the taxes hereby required to be levied.

SEC. 5. That if any such revenue bond scrip is received in the treasury for the payment of taxes, the treasurer be, and he is hereby, authorized to pay out such revenue bond scrip in satisfaction of any claims against the treasury, except for interest that may be due on the public debt.

SEC. 6. That upon the delivery to the State treasurer of the said guaranteed bonds of the Blue Ridge Railroad Company, or of any part of them, the treasurer is hereby required to cause the same to be cancelled and destroyed, in the presence of the president of the Blue Ridge Railroad Company in South Carolina and in the presence of a joint committee of the senate and house of representatives of this State, to be for that purpose appointed.

SEC. 7. That whenever the whole number of the said guaranteed bonds shall have been delivered to the treasurer and cancelled, as required by the provisions of this act, the lien of the State of South Carolina upon the estate, property, and funds of the said Blue Ridge Railroad Company in this State and of the other associated companies in the States of Georgia, North Carolina, and Tennessee, as secured by the provisions of an act entitled "An act to authorize additional aid to the Blue Ridge Railroad Company in South Carolina," passed on the fifteenth day of September, anno Domini one thousand eight hundred and sixty-eight, and all other claims or liens which are held by the State against said company or companies, on account of said guaranty, shall, from thenceforth be forever discharged and released; and should the said company be unable, from any cause, to deliver all of said bonds, such liens shall be discharged and released to an extent which shall be proportional to the amount of such bonds actually delivered.

SEC. 8. That if the said company shall accept the provisions of this act, it shall be authorized, if the board of directors may
79 desire, to change the corporate name of the company to that of the "Knoxville and South Carolina Railroad Company," and shall have power to extend its railroad, or to construct branches thereof, to any points or places in this State, with all the powers and privileges with which the said company is now vested by the provisions of its charter; and the said company shall also have power to issue bonds, and to secure the same by a mortgage, to such amount and in such manner as the board of directors may direct,

And all sales of stock in the said Blue Ridge Railroad Company in South Carolina and its associate companies, formerly held by the State and sold by the commissioners of the sinking fund, be, and they are hereby, confirmed.

SEC. 9. That if any person shall forge or counterfeit the treasury scrip hereby authorized to be issued, or shall, directly or indirectly, aid or assist in the forging or counterfeiting of such scrip, or shall issue or in any manner use any such forged or counterfeited, he shall, on conviction thereof, be fined in the discretion of the court, and shall be imprisoned in the penitentiary for a term not exceeding ten years.

IN THE HOUSE OF REPRESENTATIVES,
COLUMBIA, S. C., *March* 2, 1872.

On the question, "Shall this act become a law, the objections of his Excellency the Governor to the contrary notwithstanding?" the yeas and nays were ordered, pursuant to provisions of the constitution, resulting, yeas 84, nays 18; and ordered to be sent to the Senate.

By order: (Signed) A. O. JONES, *C. H. R.*

IN THE SENATE, COLUMBIA, S. C., *March* 2, 1872.

On the question, "Shall this act pass and become a law, the objections of his Excellency the Governor to the contrary notwithstanding?" the yeas and nays were ordered, pursuant to provisions of the constitution (Art. III, Sec. 22), the act passed by a *viva voce* vote of, yeas 22, nays 6; and ordered to be returned to the House of Representatives.

By order: (Signed) J. WOODRUFF,
Clerk of Senate.

80 An act to repeal section four (4) of an act entitled "An act to relieve the State of South Carolina of all liability for its guaranty of the bonds of the Blue Ridge Railroad Company, by providing for the securing and destruction of the same," approved March 2, 1872, and to repeal so much of section 72, chapter XII, title III, of the general statutes, as authorizes the State auditor to give notice annually to each county auditor of the rates per centum to be levied for various State purposes.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That section four (4) of an act entitled "An act to relieve the State of South Carolina of all liability for its guaranty of the bonds of the Blue Ridge Railroad Company, by providing for the securing and destruction of the same," approved March 2, 1872, providing for an annual tax of three mills on the dollar for the redemption of the revenue bond scrip, be, and the same is hereby, repealed.

SEC. 2. That so much of section seventy-two (72), chapter XII, title III, as directs that the State auditor shall, on or before November fifteenth, annually give notice to each county auditor of the

rates per centum authorized by law to be levied for various State purposes, be, and the same is hereby, repealed, and the comptroller general is hereby forbidden to levy any tax for any purpose whatever, unless expressly hereafter authorized so to do by statute.

Approved October 22, 1873.

81 *Exemplified Copy of the Order of Court Appointing Assignees in Bankruptcy of the Blue Ridge Railroad Company.*

THE UNITED STATES OF AMERICA,
Eastern District of South Carolina:

Stated term of the United States district court, begun and holden at Charleston, in said district, on the first Monday of July, A. D. 1873, Hon. George S. Bryan, U. S. district judge, presiding.

In re THE BLUE RIDGE RAILROAD COMPANY IN SOUTH CAROLINA, Bankrupt.

The matter of the confirmation of assignees of the estate and effects of the above-named bankrupt, reported to have been duly chosen at a meeting of creditors held at the office of J. C. Carpenter, register, in the city of Charleston, on the 27th day of June, A. D. 1873, coming on to be heard, and counsel having been fully heard, Corbin & Stone in favor of and Wm. Henry Trescott and Edward McCrady, Jr., against said confirmation, and after due consideration of the questions involved—

I. It is ordered, adjudged, and decreed that the choice of John P. Southern to be assignee of the estate and effects of the above-named bankrupt is approved and the election of James P. Low to be assignee is not approved.

In view of the magnitude of the interests involved, the court will exercise the discretion conferred upon it by the 13th section of the act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2d, 1867, and appoint James P. Low, Esq., of Columbia, South Carolina, and George W. Williams, of Charleston, S. C., to be additional assignees of the estate and effects of the above-named bankrupt. Let this result be duly certified to J. C. Carpenter, register, and the said parties be duly notified.

(Signed) GEORGE S. BRYAN,
16th July, 1873. *U. S. Judge, Dist. of S. C.*

82 UNITED STATES OF AMERICA, *District of South Carolina:*

CLERK'S OFFICE, U. S. DISTRICT COURT.

I, E. M. Seabrook, clerk of the said court, do hereby certify that the foregoing order of confirmation and appointment of assignees is a true copy of the original order now on file in my office in the matter of "The Blue Ridge Railroad, in bankruptcy."

Witness my hand and the seal of the said court, this twenty-third (23d) day of March, A. D. 1881.

[SEAL.] E. M. SEABROOK,
C. D. C. U. S., S. C.

Exemplified Copy of the Order of Court Discharging one of the Assignees in Bankruptcy of the Blue Ridge Railroad Company.

THE UNITED STATES OF AMERICA, *District of South Carolina:*

In the District Court. In Bankruptcy.

In the Matter of THE BLUE RIDGE RAILROAD COMPANY, Bankrupt.

On motion of Buist & Buist, attorneys of Geo. W. Williams, assignee—

It is ordered that the said George W. Williams be absolutely and forever discharged as assignee of the said Blue Ridge Railroad Company, in accordance with the provisions of the acts of the Congress of the United States relating to bankruptcy.

(Signed) GEO. S. BRYAN,
9th July, 1878. *U. S. Judge, Dist. of S. C.*

UNITED STATES OF AMERICA, *District of South Carolina:*

CLERK'S OFFICE, U. S. DIST. COURT.

I, E. M. Seabrook, clerk of the said court, do hereby certify that the foregoing order is a true copy of the original order discharging Geo. W. Williams, assignee, now on file in my office, in the matter of the Blue Ridge Railroad Company, bankrupt.

Witness my hand and the seal of the said court, this twenty-third (23d) day of March, A. D. 1881.

[SEAL.] E. M. SEABROOK,
C. D. C. U. S., S. C.

83 *Transcript of Record.*

Supreme Court of the United States.

JOHN P. SOUTHERN, GEORGE W. WILLIAMS, and JAMES P. LOW, Assignees of the Blue Ridge Railroad Company in South Carolina, Appellants,
vs.
THOMAS C. DUNN, Comptroller General of South Carolina; J. W. HOLEMAN, and B. D. DEAN. } No. 229.

Appeal from the circuit court of the United States for the district of South Carolina.

84 UNITED STATES OF AMERICA, *District of South Carolina,* } *to wit:*

At a circuit court of the United States for the fourth circuit, in and for the district of South Carolina, begun and holden at Columbia, in the district aforesaid, on the fourth Monday in November, 1874, before the Honorable Hugh L. Bond and the Honorable George S. Bryan, judges of the said United States for the district of South Carolina, holding said circuit court according to the form of the act of Congress in such case made and provided, the following proceedings were had:

JOHN P. SOUTHERN, GEORGE W. WILLIAMS, and JAMES P. LOW, Assignees of the Blue Ridge Railroad Company in South Carolina, bankrupt, complainants,

against

SOLOMON L. HOGE, Comptroller General of South Carolina; J. W. HOLEMAN, and B. D. DEAN, Defendants.

Be it remembered that heretofore, to wit, the fourth Monday in November, in the year of our Lord one thousand eight hundred and seventy-four, the said John P. Southern, George W. Williams, and James P. Low, assignees of the Blue Ridge Railroad Company in South Carolina, filed *his* bill of complaint against Solomon L. Hoge, comptroller general of South Carolina, and others, for injunction and relief, as follows:

Bill.

In the Circuit Court. In Equity.

THE UNITED STATES OF AMERICA,
Fourth Circuit, District of South Carolina:

To the honorable the judges of the circuit court of the United States for the district of South Carolina:

John P. Southern, George W. Williams, and James P. Low, assignees in bankruptcy of the Blue Ridge Railroad Company in South Carolina, bring this their bill of complaint against Solomon L. Hoge, comptroller general of the State of South Carolina; J. W. Holeman, county treasurer of Oconee county, in the said State; and B. D. Dean, county treasurer of Anderson county, in the said State.

85 And thereupon your orators complain and say:

I. The Blue Ridge Railroad Company in South Carolina, a corporation created by the laws of South Carolina, was adjudged a bankrupt by the district court of South Carolina on the 22nd day of April, 1873, and subsequently, viz., on the 16th day of July, 1873, your orators were duly appointed by the said court assignees in bankruptcy of the said corporation.

II. At the time at which it was so adjudicated a bankrupt the said Blue Ridge Railroad Company in South Carolina was the holder and owner of certain obligations of the State of South Carolina, in the shape of treasury certificates of indebtedness, known as revenue bond scrip of the State of South Carolina, to the amount of $——, of which revenue bond scrip your orators are now the holders and owners by virtue of their office of assignees of the said corporation.

III. The nature of the said revenue bond scrip and your orators' rights as holders thereof will appear from the following facts: The General Assembly of South Carolina, by an act passed on the 13th September, A. D. 1868, and entitled "An act to authorize additional aid to the Blue Ridge Railroad Company in South Carolina," authorized and directed the comptroller general of the said State to endorse on certain contracts or bonds of the said the Blue Ridge Railroad Company in South Carolina to the amount of four millions

of dollars; that the faith and funds of the State of South Carolina are pledged to the faithful performance of the said contracts as respects the punctual payment of both the principal and interest, according to the terms of the said contracts. A proviso to this act annexed, requiring the issue of the said bonds or contracts to be made on certain terms, was, by a subsequent act of the said General Assembly, passed on the 6th March, A. D. 1871, repealed, and thereupon the said bonds so endorsed became in the hands of the Blue Ridge Railroad Company applicable to its corporate purposes, without restriction.

IV. The Blue Ridge Railroad Company duly issued the whole amount of the said bonds for its corporate purposes, which bonds passed into the hands of purchasers for value, and the State of South Carolina thus, by reason of its guaranty of the said bonds, became indebted to the holders thereof in the sum of four millions of dollars.

86 V. The State of South Carolina being thus liable for this debt of four millions of dollars, and being desirous of making a favorable arrangement thereof with its creditors, and being unable to do so except through the agency and with the aid of the Blue Ridge Railroad Company, its General Assembly, in pursuance of an understanding with the said company, did, by an act which became law on the 2d March, A. D. 1872, and is entitled "An act to relieve the State of South Carolina of all liability for its guaranty of the bonds of the Blue Ridge Railroad Company, by providing for the securing and destruction of the same," enacted that "upon the surrender by the said company to the State treasury of South Carolina of the aforesaid bonds the State treasurer should issue to the said Blue Ridge Railroad Company in South Carolina treasury certificates of indebtedness, to the amount of eighteen hundred thousand dollars; and, in case the said company could not deliver the whole of the said bonds, then that he should deliver to it the said certificates in an amount proportioned to the amount of bonds actually delivered by it to him." It was further provided by the said act the said certificates should be designated revenue bond scrip of South Carolina; should express that the sum named therein is due by the State of South Carolina to the bearer thereof, and that they shall be received in payment of taxes and all other dues to the State except special taxes levied to pay interest on the public debt. By the 4th section of said act it was further declared "that the faith and funds of the State are hereby pledged for the ultimate redemption of the said revenue bond scrip, and the county treasurers are hereby required to receive the same in payment of all taxes levied by the State, except in payment of special taxes levied to pay interest on the public debt; and the State treasurer and all other public officers are hereby required to receive the same in payment of all dues to the State; and still further to provide for the redemption of the said revenue bond scrip, an annual tax of three mills on the dollar, in addition to all other taxes on the assessed value of all taxable property in the State, is hereby levied, to be collected in the same manner and time as may be provided by law for the collection

of the regular annual taxes of the State: and the State treasurer is hereby required to retire, at the end of each year from
87 their date, one-fourth of the amount of the treasury scrip hereby authorized to be issued, until all of it shall be retired, and to apply to such purposes exclusively the taxes hereby required to be levied." It was moreover in the said act explicitly declared that on the delivery by the said company of the said bonds to the State treasurer the said company shall be discharged from all liability to the State on account of advances by reason of the said bonds.

VI. Upon the passage of the said act the Blue Ridge Railroad Company proceeded to perform its part of the said contract, and having met with great success in its efforts, was able to deliver to the treasurer of South Carolina all but six hundred thousand of the said bonds, which were then in the possession of the financial agent of the State of South Carolina in the city of New York, and the president of the Blue Ridge Railroad Company in South Carolina consented to an order in writing by the State treasurer directing the said financial agent to deliver the said six hundred thousand dollars of bonds to him. The said treasurer thereupon delivered to the said company revenue bond scrip, duly executed in conformity with the said act of March 2d, A. D. 1872, in amount proportioned to the amount of the said bonds delivered by it to him.

VII. Your orators submit that by virtue of the said scrip a valid contract subsists between the State of South Carolina and the holders thereof; that for its liability to perform such contract the State of South Carolina received not only valuable, but a very large and adequate, consideration in the surrender and extinguishment of bonds due by it for more than double the revenue bond scrip delivered to the Blue Ridge Railroad Company, and that the State of South Carolina is bound in law and good conscience to perform its contract as set forth in the said act of the 2nd March, A. D. 1872, and in the revenue bond scrip.

VIII. Your orators further show that the State of South Carolina has not only neglected and refused to perform its said contract, but has made several laws impairing the obligation thereof. It first, with the purpose of impairing the obligation of said contract, abolished the office of State auditor, he being the officer through whom its said contract was to be performed. It then, by an act dated October 22d, A. D. 1873, at which time the Blue Ridge Railroad Company had become the holder and owner of the scrip hereinbefore mentioned, *it* repealed the 4th section of said act of
88 the 2nd March, A. D. 1872, and expressly forbade the comptroller general to levy the tax therein provided for; and it further, by an act passed on the 22nd December, A. D. 1873, repealed all laws giving power to the comptroller general in relation to the levy of taxes, and forbade the county treasurers to levy any tax but those included in the said act, which made no provision for a tax to be levied on behalf of holders of the revenue bond scrip. And the said State having since levied several regular annual taxes has levied no tax for the holders of revenue bond scrip.

IX. The Blue Ridge Railroad Company when it was adjudicated

a bankrupt, and your orators now, as its assignees in bankruptcy, are indebted to the State of South Carolina in the sum of ten thousand eight hundred and forty-five $\frac{33}{100}$ dollars, being so much taxes assessed and imposed by the said State on the property of the said company, none of which taxes are special taxes, levied to pay the interest on the public debt. Of these taxes three thousand three hundred and four $\frac{11}{100}$ dollars are assessed and imposed by and are payable to the county treasurer of Anderson county, the said defendant, and seven thousand five hundred and forty-one $\frac{22}{100}$ dollars are assessed and imposed by and are payable to the defendant, the county treasurer of Oconee county. To each of the said county treasurers your orators have tendered in payment of the said taxes an amount in revenue bond scrip equal in amount to the taxes payable to him, but each and both of them have refused to receive the whole or any part of the revenue bond scrip so tendered to them by your orators, and in so refusing they pretend that authority to receive the said scrip has been taken from them by the said acts of the General Assembly of the 22d of October, A. D. 1873, and the 22d December, A. D. 1873.

X. The defendant, Solomon L. Hoge, who is the comptroller general of South Carolina, and whose duty it is to levy a tax in payment of the revenue bond scrip held by your orators, has neglected and refused so to do, and in like manner pretends that his authority to levy such tax is taken away by the said acts of the 22d October, A. D. 1873, and the 22d December, A. D. 1873.

IX. Your orators therefore charge that the said actings and doings of the State of South Carolina are in breach of its con-
89 tract with your orators as holders of the said scrip; are in fraud of their rights in that respect, and are against good conscience and equity; and that the said acts of the General Assembly, abolishing the office of auditor and repealing the provisions of the act of 2d March, A. D. 1872, are laws impairing the obligation of a contract, and invalid and void as being in violation of the Constitution of the United States. They moreover charge that by reason of the premises they cannot perform their duties as assignees as aforesaid, because the said taxes due by them are a lien upon the property of the said company and create a cloud on their title thereon, and that by reason thereof they are unable to make for the creditors they represent as good a sale thereof as otherwise they might.

In tender consideration whereof, and — the end, therefore, that the defendants may full answer make to the premises, and that it may be declared that a valid contract subsists between your orators, as holders of the said revenue bond scrip, and the State of South Carolina, whereby the latter is bound to perform the matters by the said scrip and the act of the 2d March, A. D. 1872, promised by it to be done; and that the said State, for the purpose of defending itself as it may be advised to be proper, may be allowed, on the application in its behalf of its attorney general, to become a party to these proceedings; that the repeal of the provisions of the act of the 2d March, A. D. 1872, may be declared to impair the obligations of the

said contract and therefore to be unconstitutional, null, and void; that the said contract may be declared to be valid and subsisting; that the comptroller general of South Carolina may be required, in pursuance of the said act, to levy a tax to satisfy the revenue bond scrip held by your orators; that the defendants, the county treasurers, may be decreed to receive the said scrip in payment of the said taxes due by your orators to the State of South Carolina; that on their refusal to do so they may be enjoined from enforcing the said taxes by selling the property of your orators or in any other manner; and that on such refusal the lien of the said taxes on the property of your orators may be declared to be discharged, and that your orators may have such other and further relief as to your honors shall seem meet, may it please your honors to grant unto your orators not only your writ of injunction in the premises,
90 but also your writ of subpœna, directed to the said Solomon L. Hoge, comptroller general of South Carolina; J. W. Holeman, county treasurer of Oconee county, of the said State; and B. D. Dean, county treasurer of Anderson county, of the said State, commanding them and each of them to be and appear before your honors in this honorable court, then and there true, direct, and perfect answer to make to all and singular the premises, and to stand, abide, and perform such orders and decree therein as to your honors shall seem meet.

And your orators will ever pray, &c., &c.

D. T. CORBIN,
Complainants' Solicitor.

THE STATE OF SOUTH CAROLINA, *Charleston County:*

Personally appeared before me James P. Low, who, being duly sworn, deposed that the matters and things in the above bill of complaint set forth are true, so far as they are within his knowledge, and that so far as they are obtained from the information of others he believes them to be true.

JAMES P. LOW.

Sworn to this 7th day of August, A. D. 1875.

DAN'L HORLBECK,
C. D. C. U. S. for S. C.

Subpœna.

UNITED STATES OF AMERICA,
Fourth Circuit, State of South Carolina:

The President of the United States of America to Solomon L. Hoge, comptroller general of South Carolina; J. W. Holeman, county treasurer of Oconee county, in the said State; B. D. Dean, county treasurer of Anderson county, in the said State:

You are hereby strictly commanded and firmly enjoined that, all manner of excuses being laid aside, you be and appear before the judges of the circuit court of the United States for the district of

South Carolina, at Charleston, on the first Monday of ——,
91 twenty days after the service thereof, then and there true and perfect answer to make, upon your corporal oath, on the Holy Evangelists, to all such matters as shall be objected against you in the bill of complaint of John P. Southern, George W. Williams, and James P. Low, assignees in bankruptcy of the Blue Ridge Railroad Company in South Carolina. And also that you do, on the rules day next immediately after the day appointed and expressed, file or cause to be filed in the registry of said court your plea, answer, or demur-er to the said bill of complaint.

Hereof fail not, under the pain of one hundred pounds.

Given under the seal of the said court.

Witness the Honorable Morrison R. Waite, Chief Justice of the United States of America, at Charleston, in South Carolina, district aforesaid, the first day of April, in the year of our Lord one thousand eight hundred and seventy-four, and in the ninety-ninth year of the sovereignty and Independence of the United States of America.

J. E. HAGOOD, [SEAL.]
C. C. C., Dist. of So. Ca.

D. T. CORBIN,
Complainants' Solicitors.

MEMORANDUM.—The defendants will take notice that they are to enter their appearance in this suit in the clerk's office on or before the day at which this writ is returnable, otherwise the bill will be taken *pro confesso* against them.

Returns of Marshal.

COLUMBIA, S. C., *August 13th*, 1874.

I certify that I have this day executed the within process by personal service of a copy thereof on Solomon L. Hoge, comptroller general of S. C

T. H. BLACKWELL,
Dep'ty U. S. Marshal.

ANDERSON C. H., S. C., *August 18th*, 1874.

I certify that I have this day executed the within process by personal service of a copy thereof on B. D. Dean, county treasurer of Anderson Co., S. C.

JAMES H. McCORNELL,
Dep'ty U. S. Marshal.

92 WALHALLA, S. C., *Aug. 19th*, 1874.

I certify that I have this day executed the within process by personal service of a copy thereof on J. W. Holeman, treasurer of Oconee county, S. C.

JAMES McCORNELL,
Dep'ty U. S. Marshal.

Entered civil docket, folio 58.

Aug. 7th, 1874.

R. M. WALLACE,
U. S. Marshal.

And on the 7th day of August, A. D. 1874, came into court the complainants, by their solicitor, D. T. Corbin, and filed the following notice of motion for injunction, which notice is in the words and tenor following:

Notice of Motion for Injunction.

UNITED STATES OF AMERICA, *District of South Carolina:*

JOHN P. SOUTHERN, GEORGE W. WILLIAMS, JAMES P. LOW, Assignees of the Blue Ridge Railroad Company in South Carolina, Bankrupt,

vs.

SOLOMON L. HOGE, Comptroller General of South Carolina; J. W. HOLEMAN, County Treasurer of Oconee County, S. C., and B. D. DEAN, County Treasurer of Anderson County, South Carolina.

Please take notice that upon the bill of complaint this day filed in the above-entitled cause the complainants will move before his honor, Honorable George S. Bryan, U. S. district judge, at the United States court-house in the city of Charleston, in said district, on the first Monday of October (5th) next, at eleven o'clock a. m., for a writ of injunction against the above-named defendants and each of them, and their successors in office and each of them, to enjoin and restrain them from levying upon and selling the property, real
93 and personal, of the complainants, as assignees of the Blue Ridge Railroad Company in South Carolina, bankrupt, on account of taxes assessed thereon, or hereafter to be assessed thereon, till the further order of the court.

D. T. CORBIN,
Solicitor for Complainants.

To Solomon L. Hoge, comptroller general of the State of South Carolina; J. W. Holeman, county treasurer of Oconee county, South Carolina; B. D. Dean, county treasurer of Anderson county, South Carolina.

Charleston, S. C., August 7, 1874.

Return to Notice of Motion of Injunction.

COLUMBIA, S. C.

I certify that I have executed the within process by personal service of a copy thereof on Solomon L. Hoge, comptroller gen'l of S. C., this 13th day of August, 1874.

T. H. BLACKWELL,
Dep'ty U. S. Marshal.

ANDERSON C. H., S. C., *August 18th*, 1874.

I certify that I have executed the within process by personal service of a copy thereof on B. D. Dean, county treasurer Anderson Co.

JAMES H. McCORNELL,
Deputy U. S. Marshal.

WALHALLA, S. C., *Aug. 19th*, 1875.

I certify that I have executed the within process by personal service of a copy thereof on J. W. Holeman, county treasurer of Oconee county, S. C.

JAMES H. McCORNELL,
Deputy U. S. Marshal.

Entered civil docket, folio 58.
Aug. 7th, 1874.

R. M. WALLACE,
U. S. Marshal.

94 And on the 18th day of September, A. D. 1874, came into court the complainants, by their solicitor, D. T. Corbin, and filed the following additional notice of motion; which additional notice is in the words and tenor following:

Additional Notice of Motion.

U. S. Circuit Court. In Equity.

ASSIGNEES BLUE RIDGE RAILROAD COMPANY IN S. C.
v.
S. L. HOGE, Comptroller General, *et al.*

CHARLESTON, S. C., *Sept. 18th*, 1874.

Please take notice that at 12 o'clock M., on the 5th day of October next, I shall move before the Hon. George S. Bryan, at the court-house in Charleston, for orders in addition to that of which you have received the notice, dated August 7, 1874.

D. T. CORBIN,
Complainants' Solicitor.

To Hon. S. L. Hoge, comptroller general State S. C.; J. W. Holeman, Esq., county treasurer Oconee Co., and J. J. Norton, Esq., his solicitor; B. D. Dean, Esq., county treasurer Anderson Co., S. C.

And on the 5th day of October, A. D. 1874, came into court William Stone, Esq., and filed the following affidavit; which affidavit is in the words and tenor following:

Affidavit.

UNITED STATES OF AMERICA,
District of South Carolina:

Personally appeared William Stone, who, on oath, says that he served the within notice by depositing in the P. O. at Charleston, S. C., September 18, 1874, a copy of the same addressed to each of the within-named defendants, postage on the same being prepaid.

WILLIAM STONE.

95 Sworn to before me the 5 day of October, 1874.

J. E. HAGOOD,
C. C. C. U. S., Dist. S. C.

And on the 8th day of September, A. D. 1874, came into court J. J. Norton, solicitor for defendant J. W. Holeman, and filed the following notice of appearance; which notice is in the words and tenor following:

Notice of Appearance.

UNITED STATES OF AMERICA,
Fourth Circuit, State of South Carolina:

JOHN P. SOUTHERN, GEORGE W. WILLIAMS, & James P. Low, assignees of the Blue Ridge Railroad Company in South Carolina, Bankrupt,
vs.
SOLOMON L. HOGE, Comptroller General of South Carolina: J. W. Holeman, County Treasurer of Oconee county, S. C., and B. D. Dean, County Treasurer of Anderson County, South Carolina.

Bill of complaint on the equity side of said court.

To JAMES E. HAGOOD, Esquire, *Clerk of said Court:*

You will please enter the name of the subscriber as attorney and solicitor for the defendant, J. W. Holeman, county treasurer of Oconee county, S. C., in the above-entitled action.

5th Sept., 1874.

J. J. NORTON,
Walhalla, S. C., Solicitor for Defendant, J. W. Holeman.

And on the 5th day of October, A. D. 1874, came into court J. W. Holeman, one of the defendants, by his solicitor, J. J. Norton, and filed the following answer; which answer is in the words and tenor following:

96 *Answer.*

UNITED STATES OF AMERICA,
Fourth Circuit, District of South Carolina:

JOHN P. SOUTHERN, GEORGE W. WILLIAMS, and James P. Low, Assignees of the Blue Ridge Railroad Company, in South Carolina, Bankrupt, Complainant,
against
SOLOMON L. HOGE, Comptroller General of South Carolina; J. W. Holeman, and B. D. Dean, Defendants.

In Equity. Bill for injunction and relief.

The defendant, J. W. Holeman, county treasurer of Oconee county, in said State, answering plaintiffs' bill of complaint herein—

I. Admits the statements made in the first paragraph.

II. Admits that the plaintiffs are indebted to the State of South Carolina for taxes assessed and imposed, but what the aggregate

amount thereof is he is unable to say, but the taxes levied and imposed upon property in Oconee county, with the costs and penalties thereon, are, for last fiscal year, two thousand two hundred and forty-three dollars and sixty-six cents, of which one hundred and fourteen dollars and thirty cents are special taxes, levied to pay the interest on the public debt, and for the year before that the sum of five thousand six hundred and thirty dollars and twenty cents, an execution for which was lodged with the county treasurer of Richland county, upon which additional costs may and probably have occurred since its lodgment there. The two sums due as aforesaid to the treasurer of Oconee county for State taxes aggregate the sum of seven thousand eight hundred and seventy-three dollars and eighty-six cents (which does not include the amount due for county taxes), of which the sum of two thousand one hundred and twenty-nine dollars and thirty-six cents, and no more, has been tendered to this defendant in revenue bond scrip.

III. This defendant has not sufficient information as to the other allegations of the plaintiffs to form a belief as to their truth or falsity.

97 IV. This defendant is advised that the acts of the Legislature under which the revenue bond script were issued are unconstitutional, and the acts of the officers in issuing it illegal, null, and void.

J. J. MORTON,
Sol. for Def't Holeman.

THE STATE OF SOUTH CAROLINA, *County of Oconee:*

Personally appeared J. W. Holeman before me, and upon oath saith that the statements of the foregoing answer are true.

J. W. HOLEMAN,
County Treasurer O. C.

Sworn to 2d October, 1874.

W. M. WOODIN,
Trial Justice O. C.

And on the 13th day of October, A. D. 1874, came into court the complainants, by their solicitor, D. T. Corbin, and obtained the following order for writ of injunction, which order is in the words and tenor following:

Order for Writ of Injunction.

United States Circuit Court, South Carolina District. In Equity.

JOHN P. SOUTHERN, GEORGE W. WILLIAMS, and JAMES P. LOW, Assignees of the Blue Ridge Railroad Company in South Carolina, a Bankrupt,

vs.

SOLOMON L. HOGE, Comptroller General of South Carolina, J. H. Holeman, & B. D. Dean.

On hearing the bill of complaint in this case, which has been

taken *pro confesso* against the defendants, and on motion of Mr. Corbin for the complainants, it is ordered that an injunction do issue as prayed for in the bill.

GEO. S. BRYAN,
U. S. Judge, Dist. of So. Ca.

13th Oct., 1874.

98 And on the — day of ——, 187–, came into court the complainants, by their solicitor, D. T. Corbin, and obtained the following writ of injunction; which writ is in the words and tener following:

Writ of Injunction.

UNITED STATES OF AMERICA, *District of South Carolina:*

JOHN P. SOUTHERN, GEORGE W. WILLIAMS, and James P. Low, Assignees of the Blue Ridge R. R. Co. in South Carolina, Bankrupt, Complainants.

vs.

SOLOMON L. HOGE, Comptroller-General of South Carolina, J. W. Holeman, County Treasurer of Oconee County, and B. D. Deane, County Treasurer of Anderson County, in said State, Defendants.

Writ of Injunction. In Equity.

Whereas in the above-entitled cause now pending in the circuit court of the United States for said district, it has been ordered that an injunction do issue as prayed for in the bill:

Now, therefore, in pursuance and in execution of said order, you, J. W. Holeman, county treasurer of Oconee county, and you, B. D. Dean, county treasurer of Anderson county, in the State of South Carolina, are enjoined from proceeding by distress or otherwise to enforce the payment of taxes due by the complainants as in said bill mentioned, to the State of South Carolina, and the counties of Anderson and Oconee, in said State, till the further order of the court.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, at Charleston, on the 14th day of October, A. D. 1874, and in the 98th year of the Independence of the United States of America.

[SEAL.]

J. E. HAGOOD,
C. C. C. U. S., Dist. S. C.

D. T. CORBIN,
Complainants' Solicitor.

99 *Return to Writ of Injunction.*

I hereby certify that I have executed the within process by serving a copy of the within upon B. D. Dean, treasurer of Anderson county, by delivering a copy personally at Belton, S. C., on the 19th of Oct., 1874.

JAMES H. McCORNELL,
Deputy U. S. Marshal.

WALHALLA, S. C., 31 *Oct.*, 1874.

I hereby certify that I have served the within process.

ALEX. BRYCE,
Dep. Marsh.

And on the 20th day of October, A. D. 1874, came into court the defendants, S. L. Hoge *et al.*, by their solicitor, S. W. Melton, attorney general of the State of South Carolina, and obtained the following order for leave to file answer, which order is in the words and tenor following:

Order for Leave to File Answer.

G. W. WILLIAMS & others, Assignees, *vs.* S. L. HOGE *et al.*

On motion of the att'y general it is ordered that the decrees *pro confesso* in this case be set aside & the defendants have leave to file their answers; counsel consenting that the order of reference now made to remain in force.

GEO. S. BRYAN,
U. S. Judge, Dist. of So. Ca.

20th Oct., 1874.

We consent.

A. G. MAGRATH.
D. T. CORBIN.
HENRY BUIST.

And on the 15th day of December, A. D. 1874, came into court the complainants, by their solicitor, D. T. Corbin, and
100 obtained the following order limiting time to answer, which order is in the words and tenor following:

Order Limiting Time to Answer.

UNITED STATES OF AMERICA, *District of South Carolina:*

November Term U. S. Circuit Court, 1874.

JOHN P. SOUTHERN, GEORGE W. WILLIAMS and JAMES P. LOW, Assignees Blue Ridge R. R. Co. in S. C., Bankrupt,

vs.

SOLOMON L. HOGE, Comptroller General of South Carolina, *et al.*

The defendants in the above-entitled cause, all of them having been duly served, and some of them having failed to answer, it is, on motion of D. T. Corbin, solicitor for complainants, ordered that those of the defendants who have not answered have leave till the first Monday in January, A. D. 1875, in which to answer; that notice of this order be given said defendants or their attorneys.

Dec. 15, 1874.

HUGH L. BOND, *Ct Judge.*

And on the 5th day of January, A. D. 1875, came into court the defendants, Solomon L. Hoge, comptroller general, and others, by their solicitors, Samuel W. Melton, attorney general, & C. G. Mem-

minger & W. H. Brawley, and filed the following answer, which answer is in the words and tenor following:

Answer.

UNITED STATES OF AMERICA,
Fourth Circuit, District of South Carolina:

JOHN P. SOUTHERN, GEORGE W. WILLIAMS, and JAMES P. LOW, Assignees of the Blue Ridge Railroad Company in South Carolina, Bankrupt, Complainants.
against
SOLOMON L. HOGE, Comptroller General of South Carolina; J. W. HOLLEMAN and B. D. DEAN Defendants.

Answer of defendants. In Equity.

These defendants, saving and reserving to themselves all
101 manner of benefit and advantage of exception to the manifold errors and insufficiencies in the complainants' said bill of complaint contained, for answer thereunto, or to so much and such parts thereof as they are advised it is material for them to answer unto, answering, say:

That on September the fifteenth, one thousand eight hundred and sixty-eight, the General Assembly of South Carolina passed an act to authorize additional aid to the Blue Ridge Railroad Company in South Carolina, whereby it was, in these words, enacted that "whenever any contract or contracts may be made by the said company for borrowing money from any person, company, or corporation, to any amount not exceeding one million of dollars, and when such contract shall be made by bonds signed by the president of said company under its seal, and countersigned by the secretary and treasurer thereof, it shall be the duty of the comptroller general to endorse thereon that the faith and funds of the State are pledged for the faithful performance of the said contract, as respects the punctual payment both of the principal and interest, according to the terms of the said contract: Provided, That so much of the said issue as may be necessary, not exceeding three hundred thousand dollars, shall be applied to the redemption of the present bonded debt of the said company."

That by the second section of the said act it was further enacted that the faith and funds of the State of South Carolina are pledged to secure the payment of any contract which shall be made by the Blue Ridge Railroad Company in South Carolina, from any person or corporation, to an additional amount, not exceeding three millions of dollars; and when such contracts shall be made by bonds signed by the president of the said company, under its seal, and countersigned by the secretary and treasurer thereof, it shall be the duty of the comptroller general of the State to endorse thereon that the faith and funds of the State of South Carolina are pledged to the faithful performance of the said contracts, as it respects the payment both of the principal and interest, according to the terms of the

said contract; and that upon such endorsement being made the whole property of said company in South Carolina, North Carolina, Georgia, and Tennessee shall stand pledged and mortgaged to the State, without any further act or deed of the company, for the
102 faithful performance on the part of the said company of such contract in priority and preference of any other debt which the said company may thereafter create or incur.

And it was further, in and by the said act, enacted and declared to be an express condition that the said bonds, or any part thereof, shall not be used unless upon application to the Congress of the United States, or to private capitalists, the amount of three millions of dollars in currency, or so much of that sum as may be necessary, shall be furnished in exchange upon the security of said bonds.

And these defendants expressly aver that this condition has never been repealed, and that, being clearly expressed upon the face of the act which authorized the issue of the bonds, it conveyed to every person with dealing the said bonds express notice thereof, and bound them to see that the condition was fulfilled.

And these defendants also aver that the said condition never has been performed, and that any use made of the said bonds, in the manner set forth by the complainant, is unauthorized and illegal.

Defendants insist that the allegation of the complainant that such repeal is contained in the act of March 6th, 1871, is wholly without legal foundation.

The last-mentioned act is entitled "An act to promote the consolidation of the Greenville and Columbia Railroad Company and the Blue Ridge Railroad Company," and all the sections of that act, among which is the clause recited in the bill of complaint repealing the second section of the act of September the fifteenth, 1868, are part and parcel of the details of the consolidation proposed by the said act, and all have relation to, and are dependent upon, such consolidation. And these defendants aver that the said companies never accepted the said act, and never complied with its provisions, and that such intended consolidation has never taken place, nor have any measures been taken to that end.

And these defendants submit that the allegation that this repeal is independent of the special purpose set forth in the title of the act would involve the General Assembly in the discredit of attempting to violate that portion of the State constitution which requires each act to disclose its purpose in its title, and that it should be confined to one subject.

103 The defendants therefore deny the authority in any one to offer the said bonds for sale in the New York or any other market; and they also deny that the complainants can be deemed *bona fide* owners of them.

And these defendants, further answering, admit that there is upon the statute book of South Carolina an act entitled "An act to relieve the State of South Carolina of all liability for its guaranty of the bonds of the Blue Ridge Railroad Company, by providing for the securing and destruction of the same;" but they insist that the said act is not only unconstitutional and void, but that it evidently must

have been passed either by means of false pretenses, or of the suppression by the principal debtor, the Blue Ridge Railroad Company, of most important facts.

It is apparent from the statement in the bill, and from other circumstances, that the Blue Ridge Railroad Company had never parted with the possession of the bonds, and therefore no debt has yet been incurred by the State.

The Blue Ridge Railroad Company held their own bonds with the guaranty of the State on them, and were in the condition of a party seeking a loan on security, and not able to effect it.

No debt existed, and it was competent for the State at that stage to cancel her endorsement. It was, therefore, a false representation on the part of the Blue Ridge Railroad Company to affirm to the General Assembly that the State was a debtor, and the consideration alleged for the issue of the revenue bond scrip was pretentious, and entirely failed.

These defendants do not admit that any value was paid by the complainant, or any holder thereof, for either the bonds of the Blue Ridge Railroad Company or any of the revenue bond scrip issued under the act of March, 1872. On the contrary, these defendants have been informed, and so aver the fact to the fact to be, that whereas the acts of the General Assembly were passed with the intention of promoting work on the Blue Ridge railroad, no work of any kind has been done on the said road, nor has it advanced one foot since the passage of the said act.

These defendants, further answering, say that the said act of March 2, 1872, is unconstitutional in being repugnant to the Constitution of the United States, and also to that of South Carolina, but they also say that in a case duly made between the State of South Carolina, at the relation of E. F. Gary, against
104 the several county treasurers of the said State, and in which issue was joined in the circuit court of South Carolina for the county of Richland, it was adjudged that the said act was unconstitutional and void, and the county treasurers and all other officers of the State were enjoined from collecting the tax levied by the said act, and the State treasurer was enjoined from issuing any of the said scrip, and that upon an appeal duly taken to the supreme court of the State of South Carolina the decree of the circuit court was affirmed and judgment entered on the 9th day of June, 1873, which said judgment now stands in full force and virtue.

And these defendants aver that they have no inherent power or authority in the premises; that the whole power over the subject rests in the State of South Carolina; that by the supreme authority of this State they have been enjoined from taking any action as prayed for by the complainants, and that they cannot but submit to that authority; that in fact the State of South Carolina is a necessary principal and real party to this suit, without whose presence no action can be taken by this court, and they pray that they may have the same benefit hereof as if they had formally filed their demurrer.

These defendants, further answering, say that by the repeal of the

several sections referred to in the bill and by the abolition of the office of State auditor there is no person authorized to levy or collect the tax claimed in the bill, and the several treasurers are expressly forbidden, as well by the Legislature as by the mandate of the supreme court, from levying or collecting such tax, or from receiving or paying out any of the said revenue bond scrip, and that this court has no jurisdiction to enforce such payment, receipt, or collection; that the proper remedy is by petition to the General Assembly of the State, and that any jurisdiction over such matter is denied to the courts by the Constitution of the United States. As to so much of the said bill as prays that defendants may be prevented from collecting the taxes due as set forth in the bill, and that revenue bond scrip shall be accepted in payment thereof, these defendants aver that the said taxes are justly due the State of South Carolina, and the Legislature and judiciary departments of the said State have forbidden the acceptance of the said scrip by any officer of the State.

These defendants, the county treasurers, have given bonds to
105 the State for the performance of the duties of their office, and both they and their sureties will be held responsible should they fail to obey the orders of the said courts and Legislature.

They respectfully submit that the proper party to this suit is the State of South Carolina, and that if the court has no jurisdiction to make the State a party, it would be unjust and illegal to make any decree against these defendants.

And these defendants, denying all manner of unlawful combination and confederacy, and so forth, and having answered all such matters and things in the complainants' said bill of complaint contained as they are advised it is material or necessary for them to answer into, humbly pray to be hence dismissed with their reasonable costs and charges.

SAMUEL W. MELTON,
Attorney General.
C. G. MEMMINGER,
WM. H. BRAWLEY,
Defendants' Solicitors

UNITED STATES OF AMERICA, *District of South Carolina:*

Solomon L. Hoge, comptroller general of the State of South Carolina, makes oath before me that the matters and things in the foregoing answer contained, so far as they are stated of his own knowledge, are true, and so far as they are stated on information, he believes them to be true.

S. L. HOGE.

Sworn to and subscribed before me, this the 1st day of January, A. D. 1875.

T. M. WILKES,
United States Commissioner.

And on the 1st day of March, A. D. 1875, came into court John P. Southern, George W. Williams, and James P. Low, assignees of the Blue Ridge R. R. Co., by their solicitor, D. T. Corbin, and filed the following replication, which replication is in the words and tenor following:

106 *Replication.*

UNITED STATES OF AMERICA,
District of South Carolina, Fourth Circuit:

JOHN P. SOUTHERN, GEORGE W. WILLIAMS, & JAMES P. LOW, Assignees of the Blue Ridge R. R. Co. in South Carolina, Bankrupt,

vs.

SOLOMON L. HOGE, Comptroller Gen'l of South Carolina, and J. W. HOLEMAN, Co. Treas. Oconee Co., & B. D. DEAN, Co. Treas. Anderson Co.

Replication to answer of defendants.

These repliants, saving and reserving unto themselves all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto saith that they will aver and prove their said bill to be true, certain, and sufficient in the law to be answered unto, and that the said answer of the said defendants is uncertain, untrue, and insufficient to be replied unto by these repliants, without this, that *that* any other matter or thing whatsoever in the said answer contained material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true; all which matters and things these repliants are and will be ready to aver and prove as this honorable court shall direct, and humbly pray as in and by their said bill they have already prayed.

D. T. CORBIN,
Solicitor for Assignees.

March 1, 1875.

And on the 5th day of April, A. D. 1875, came into court the complainants, James P. Low *et al.*, assignees Blue Ridge R. R. Co., by their solicitor, D. T. Corbin, and filed the following petition *to* leave to amend bill, which petition is in words and tenor following:

Petition.

UNITED STATES OF AMERICA, *South Carolina District:*

JAMES P. LOW *et al.*, Assignees Blue Ridge R. R. Co. in S. C.,

vs.

SOLOMON L. HOGE, Comptroller General of the State of South Carolina, *et al.*

In Equity.

To the honorable the judges of said court:

107 The petition of the complainants herein respectfully shows unto your honors that on the 4th day of March, 1875, the defendant, Solomon L. Hoge, resigned his office of comptroller

general of said State of South Carolina, and since his resignation Thomas C. Dunn has been duly elected and qualified as comptroller general in his place and stead.

Wherefore your petitioner prays that they have leave to amend their bill of complaint herein by making said Thomas C. Dunn a party thereto, and by substituting the name of said Thomas C. Dunn in place of that of Solomon L. Hoge wherever it appears in said bill.

And your petitioners will ever pray, &c.

D. T. CORBIN,
April 5th, 1875. *Solicitor for Complainants.*

And on the 6th day of April, A. D. 1875, came into court the complainants, James P. Low and others, assignees Blue Ridge R. R. Co., by their solicitor, D. T. Corbin, and obtained the following order to amend bill of complaint, which order is in the words and tenor following:

Order to Amend Bill.

Circuit Court. In Equity.

UNITED STATES OF AMERICA, *District of South Carolina:*

JAMES P. LOW and Others, Assignees Blue Ridge R. R. Co. in S. C.,
vs.
SOLOMON L. HOGE, Comptroller General State of South Carolina, and Others.

It being represented that Solomon L. Hoge has resigned the office of comptroller general of South Carolina, and that Thomas C. Dunn has been duly elected, and has qualified as such officer, in place of said Hoge, now, on motion of D. T. Corbin & Henry Buist, solicitors for said complainants, it is ordered that said complainants have leave to amend their bill of complaint herein by making said
108 Thomas C. Dunn a party thereto, and inserting his name in place of that of Solomon L. Hoge wherever it appears in said bill.

GEO. S. BRYAN,
6th April, 1875. *U. S. Judge, Dist. of So. Ca.*

And on the 7th day of April, A. D. 1875, came into court the complainants, James P. Low, and others, assignees Blue Ridge R. R. Co., by their solicitors, D. T. Corbin and Henry Buist, and issued the following subpœna *ad re.;* which subpœna is in the words and tenor following:

Subpœna.

UNITED STATES OF AMERICA,
Fourth Circuit, State of South Carolina:

The President of the United States of America to Thomas C. Dunn, comptroller general State of South Carolina:

You are hereby strictly commanded and firmly enjoined that, all

manner of excuses being laid aside, you be and appear before the judges of the circuit court of the United States for the district of South Carolina, at Charleston, on the first Monday of May, twenty days after the service thereof, then and there true and perfect answer to make, upon your corporal oath on the Holy Evangelists, to all such matters as shall be objected against you in the bill of complaint of James P. Low, John P. Southern, and George W. Williams, assignees of the Blue Ridge Railroad Company of South Carolina, a bankrupt. And also that you do on the rules' day next immediately after the day appointed and expressed file, or cause to be filed, in the registry of said court, your plea, answer, or demurrer to the said bill of complaint.

Hereof fail not, under the pain of one hundred pounds.

Given under the seal of the said court.

Witness the Honorable Morrison R. Waite, Chief Justice of the United States of America, at Charleston, in South Carolina, district aforesaid, the seventh day of April, in the year of our Lord one
109 thousand eight hundred and seventy-five, and in the ninety-ninth year of the sovereignty and Independence of the United States of America.

[SEAL.]

J. E. HAGOOD,
C. C. C. U. S., Dist. S. C.

D. T. CORBIN & HENRY BUIST,
Complainants' Solicitors.

Memorandum.

The defendant is to enter his appearance in this cause in the clerk's office of said court on the first Monday of May, 1875; otherwise the bill will be taken *pro confesso*.

D. T. CORBIN & HENRY BUIST,
Compl'ts' Sol'rs.

Marshal's Return.

COLUMBIA, S. C.

I certify that I have executed the within process by personal service of a copy thereof upon Thos. C. Dunn, comptroller general of So. Ca., this 28th day of April, A. D. 1875.

T. H. BLACKWELL,
Dep'ty U. S. Marshal.

Entered civil docket, folio 83.

R. M. WALLACE, *U. S. M.*

Ap'l 7th, 1875.

And on the 13th day of April, A. D. 1875, came into court Thomas C. Dunn, comptroller general of the State of South Carolina, and filed the following acceptance; which acceptance is in the words and tenor following:

Acceptance.

UNITED STATES OF AMERICA,
District of South Carolina, 4th Circuit:

April Term Circuit Court, A. D. 1875. In Equity.

JOHN P. SOUTHERN, GEORGE W. WILLIAMS, JAMES P. LOWE, Assignees of the Blue Ridge R. R. Co., in S. C., Bankrupt, Complainants,

vs.

SOLOMON L. HOGE, Comptroller General of South Carolina; J. W. Holeman and B. D. Dean, County Treasurers.

Having been made a party defendant by order of court in
110 the above-entitled cause as the successor in office of Solomon L. Hoge, late comptroller general of South Carolina, I do hereby enter my appearance in said cause, and adopt as my own the pleadings and acts in said cause of my predecessor in office, Hon. Solomon L. Hoge, late comptroller general of the State of South Carolina.

THOS. C. DUNN,
Comptroller Gen'l.

And on the 14th day of May, A. D. 1875, came into court the defendant, Solomon L. Hoge, comptroller general of So. Ca., J. W. Holeman and B. D. Dean, county treasurers, by their solicitors, S. W. Melton, attorney general; C. G. Memminger, & W. H. Brawley, and obtained the following order dismissing bill; which order is in the words and tenor following:

Order Dismissing Bill.

UNITED STATES OF AMERICA,
District of South Carolina, Fourth Circuit:

In the Circuit Court. In Equity.

JOHN P. SOUTHERN, GEORGE W. WILLIAMS, JAMES P. LOW, Assignees of Blue Ridge Railroad Company, Bankrupt, Plaintiffs,

against

SOLOMON L. HOGE, Comptroller Gen'l of S. C.; J. W. HOLEMAN & B. D. DEAN, Defendants.

Upon the hearing of this case, and upon its appearing to the court that the judgment in the State court to which Mr. Wesley was a party concluded the rights of the complainants in this case, it is ordered that the bill be dismissed with costs, and that the injunction heretofore granted be dissolved.

May 14th, 1875.

M. R. WAITE,
Chief Justice, &c.

And on the 14th day of May, A. D. 1875, came into court the complainants, J. P. Southern, George W. Williams, & James P.
111 Low, assignees Blue Ridge R. R. Co., by their solicitor, D. T. Corbin, and filed the following prayer for appeal: which prayer is in the words and tenor following:

Prayer for Appeal.

UNITED STATES OF AMERICA,
District of South Carolina, Fourth Circuit:

J. P. SOUTHERN, GEO. W. WILLIAMS, & JAMES P. LOW, Assignees Blue Ridge R. R. Co.,
vs.
SOLOMON L. HOGE, Comptroller General of S. C.; J. W. HOLEMAN, & B. D. DEAN.

The complainants in the above cause pray that an appeal be allowed from the decree herein made.

D. T. CORBIN,
May 14th, 1875. *For Complainants.*

And on the 14th day of May, A. D. 1875, came into court the complainants, J. P. Southern, George W. Williams, & James P. Low, assignees Blue Ridge R. R. Co., by their solicitor, D. T. Corbin, and obtained the following allowance of appeal; which allowance of appeal is in the words and tenor following:

Allowance of Appeal.

Ordered, that an appeal be allowed as prayed for.

M. R. WAITE,
14th May, 1875. *Chief Justice, &c.*

Know all men by these presents, that we, John P. Southern and William B. Gulick, are held and firmly bound unto Thomas C. Dunn, comptroller general of South Carolina; B. D. Dean, county treasurer of Anderson county; and Geo. Holeman, county treasurer of Oconee county, South Carolina, in the full and just sum of two hundred dollars, to be paid unto the said Thomas C. Dunn, B. D. Dean, and G. W. Holeman, their successors, attorneys, executors, administrators, or assigns; to which payment, well and truly to be made, we
112 bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents. Sealed with our seals, and dated the thirteenth day of October, in the year of our Lord one thousand eight hundred and seventy-five.

Whereas lately, at a circuit court of the United States in and for the district of South Carolina, in a suit depending in said court between J. P. Southern, J. P. Low, and George W. Williams, assignees of the Blue Ridge Railroad Company in South Carolina, and the comptroller general of South Carolina and said D. B. Dean and J. W. Holeman, a decree was rendered in favor of said last-named persons and against said assignees of said Blue Ridge Railroad Com

pany; and the said assignees having obtained leave in open court to appeal to the Supreme Court of the United States from the decree of the said circuit court:

Now, the above obligation is such that if the said J. P. Southern, James P. Low, and George W. Williams, assignees as aforesaid, shall prosecute said appeal to effect, and answer all damages and costs if they fail to have said decree of said court reversed, then the above obligation to be void; else to remain in full force and virtue.

J. P. SOUTHERN. [L. S.]
W. B. GULICK. [L. S.]

Sealed and delivered in the presence of—
G. M. WALKERS.

Approved by—

GEO. S. BRYAN,
U. S. Judge, Dist. So. Ca.

14 Oct., 1875.

Approved Oct. 16, 1875.

M. R. WAITE, *Ch. J.*

UNITED STATES OF AMERICA, *District of South Carolina:*

CLERK'S OFFICE, U. S. CIRCUIT COURT.

I, J. E. Hagood, clerk of the circuit court of the United States for South Carolina, do hereby certify that the accompanying
113 forty-*three* (44) pages of writing (part in print) do contain a full and true copy of the record and proceedings in said circuit court in the cause of John P. Southern, George W. Williams, and James P. Low, assignees of the Blue Ridge Railroad Company in South Carolina, bankrupt, complainants, against Solomon L. Hoge, comptroller general of South Carolina; J. W. Holeman, and B. D. Dean, defendants, now on appeal from the circuit court to the Supreme Court of the United States.

Given under my hand and seal of said court at clerk's office in the city of Charleston, this 15th day of September, A. D. 1875.

[SEAL.] J. E. HAGOOD,
C. C. C. U. S., Dist. of So. Ca.

(Indorsement on cover:) No. 229. John P. Southern, George W. Williams, and James P. Low, assignees of the Blue Ridge Railroad Company in South Carolina, appellants, *vs.* Thomas C. Dunn, comptroller general of South Carolina; J. W. Holeman, & B. D. Dean. S. Carolina C. C. U. S. Filed 16th October, 1875.

114 *Trial of Cause.*

And at the April term, 1881, of the said circuit court, these two causes, John P. Southern and James P. Low, assignees of the Blue Ridge Railroad Company in South Carolina, bankrupts, complainants, against Johnson Hagood, comptroller general of the State of South Carolina; R. S. Porcher, county treasurer of Oconee county, in the said State, and Samuel E. Moore, county treasurer of Ander-

son county, in the said State, defendants, and the case of Amos D. Williams, complainant, against Johnson Hagood, comptroller general of the State of South Carolina; S. L. Leaphart, treasurer of the said State; P. C. Gaillard, county treasurer of Charleston county; William H. Gibbes, county treasurer of Richland county; H. F. Alexander, county treasurer of Oconee county; William McGukin, county treasurer of Anderson county; John P. Southern and James P. Low, assignees in bankruptcy of the Blue Ridge Railroad
115 Company, defendants, came up for hearing on bill, answers, and the pleadings, together with the testimony taken in the two cases. Argument by Mr. McMahon and Rion, on behalf of the complainants, and Mr. Youmans was to submit his argument (printed) to the court within sixty days, and complainants in reply to his argument within thirty days thereafter to the court. Mr. Edward B. Wesley, of New York, was also present at the trial, and brought into the court his revenue bond scrip, as well as the complainant, A. D. Williams, and submitted his rights to the court.

And on the 15th day of May, A. D. 1882, the following decree was filed, which decree is in the words and tenor following:

Decree.

116 At a circuit court of the United States held in and for the fourth circuit and district of South Carolina, at the city of Charleston, South Carolina, on the 9th day of April, 1881.

UNITED STATES OF AMERICA, *South Carolina District:*

In Equity.

JOHN P. SOUTHERN and JAMES P. LOW, Assignees of the Blue Ridge Railroad Company in South Carolina, Bankrupts, Complainants,

vs.

JOHNSON HAGOOD, Comptroller General of the State of South Carolina; R. S. PORCHER, County Treasurer of Oconee County, in the said State; and SAMUEL E. MOORE, County Treasurer of Anderson County, in the said State, Defendants.

117 AMOS D. WILLIAMS, Complainant,

vs.

JOHNSON HAGOOD, Comptroller General of the State of South Carolina; S. L. LEAPHART, Treasurer of the said State; P. C. GAILLARD, County Treasurer of Charleston County; WILLIAM H. GIBBES, County Treasurer of Richland County; H. F. ALEXANDER, County Treasurer of Oconee County; WILLIAM McGUKIN, County Treasurer of Anderson County; JOHN P. SOUTHERN and JAMES P. LOW, Assignees in Bankruptcy of the Blue Ridge Railroad Company, Defendants.

These causes came on to be heard before the Honorable Hugh L. Bond, circuit judge in and for the fourth circuit, and the Honorable George S. Bryan, district judge in and for the district of South

Carolina, both holding a circuit court in the city of Charleston in said circuit and district; and having been fully heard on the
118 pleadings and proofs, a brief of which was duly filed with the clerk of this court at the time of said hearing; and after hearing Dennis McMahon, Esq., James H. Rion, Esq., and Thomas S. Cavender, Esq., of counsel for the complainant, and Edward B. Wesley, Esq., of New York, having appeared in open court, and consented to be a party complainant with said Amos D. Williams, and having produced and exhibited to the court the revenue bond scrip referred to in the pleadings in this action, to wit, $1,005,000; and the complainant, Amos D. Williams, having produced the revenue bond scrip in his possession, to wit, $165,000, ready then and there to be dealt with as this court should direct; and after hearing Honorable LeRoy F. Youmans, attorney general of the State of South Carolina, and C. G. Memminger, Esq., associate counsel with the attorney general, in opposition; and due deliberation being had in the premises,
119 the said court doth find the following facts and conclusions of law, to wit:

As Matter of Fact.

I. That the Legislature of the State of South Carolina, on the 2d day of March, 1872, passed in due form an act in which, among other things, after reciting that the State of South Carolina had, before that time, endorsed their guaranty of four million dollars of bonds of the Blue Ridge Railroad Company, that many of said bonds were under pledge in Wall street in the city of New York, and that said State might be called upon at inopportune times to pay the same, the said Legislature did provide that the State treasurer of South Carolina should devise the form of a certificate to be issued, to be styled revenue bond scrip, which scrip would entitle the holder to have the same received in payment of taxes levied by the State, except the special tax levied to pay interest on the public debt. The said act did further provide that the
120 said State treasurer should issue of said scrip not more than one million and eight hundred thousand dollars in all, and the said scrip should only be issued in proportion to the amount of bonds of said issue redeemed and returned to the said State treasurer for cancellation.

II. That under and pursuant to said act the said State treasurer did devise the form of and did issue said scrip, and in company with the president of the Blue Ridge Railroad Company, in the latter part of March, 1872, came to the city of New York, and saw Edward B. Wesley, Esq., a banker in Wall street, and Amos D. Williams, Esq., the complainant herein, a member of the stock exchange, the latter of whom had before that time purchased in open market in Wall street four hundred and seventeen thousand dollars of said bonds guaranteed by the State, the former of whom owned none of said bonds.

121 III. That relying upon the faith of the provisions of said act of 2d March, 1872, and on the representations of the State treasurer of South Carolina, and of the president of the Blue Ridge

Railroad Company, the complainant, Amos D. Williams, was induced to surrender four hundred and seventeen thousand dollars of said bonds of the Blue Ridge Railroad Company, and to take in payment therefor one hundred and sixty-five thousand dollars of said revenue bond scrip; and said Edward B. Wesley was also induced by said representations of said State treasurer, and of said president of the Blue Ridge Railroad Company, to advance in cash, in the city of New York, three hundred and forty-four thousand and nine hundred and twenty-five dollars, in the latter part of March, 1872, and he received as security for such advances revenue bond scrip to the amount of one million and five thousand dollars.

122 That with the money thus advanced the president of the Blue Ridge Railroad Company was enabled to redeem two million and nine hundred and two thousand dollars of bonds of the Blue Ridge Railroad Company, then lying under pledge in Wall street, in the city of New York, having the guaranty of the State of South Carolina thereon; and this redemption enabled the said president of the Blue Ridge Railroad Company to carry out to that extent the provisions of the act of 2d March, 1872; and thereby the complainant, Amos D. Williams, was constituted a *bona fide* holder of one hundred and sixty-five thousand dollars of said revenue bond scrip, and the said Blue Ridge Railroad Company were constituted *bona fide* holders of one million five thousand dollars of said revenue bond scrip, subject to the lien of said Edward B. Wesley for the sum of three hundred and forty-four thousand and nine hundred and twenty-five dollars, with inter-

123 est thereon from March, 1872, upon the payment of which sum and the discharge of which lien the equity in said revenue bond scrip is in the assignees in bankruptcy of said Blue Ridge Railroad Company.

IV. That on the faith of said revenue bond scrip, in addition to the surrender and cancellation of the aforesaid amount of bonds, the Blue Ridge Railroad Company procured to be surrendered to the aforesaid State treasurer the remainder of said four million dollars of bonds, with the exception of about four thousand dollars.

V. That on the 22d day of October, 1873, the Legislature of the State of South Carolina passed an act, wherein and whereby they repealed the fourth section of the act of March, 1872; and wherein and whereby they expressly forbade the comptroller general of said State of South Carolina to levy the tax for the redemption of said revenue bond scrip.

VI. That on the 22d day of December, 1873, the Legislature

124 of said State of South Carolina passed an act wherein they forbade any State or county officer to accept payment of taxes in said revenue bond scrip.

VII. That since the passage of said two acts the State officers of South Carolina have totally refused to levy the tax provided to be levied under and by provisions of the act of 2d March, 1872, and have also refused to take the necessary steps for such purpose, although due demand before the commencement of this suit has been

made on such State officers, by and on behalf of the said complainant and the said Edward B. Wesley.

VIII. That since the passage of said two last mentioned acts the said State officers have refused to receive from the Blue Ridge Railroad Company, and from the assignees in bankruptcy of said corporation the said revenue bond scrip in payment of the taxes, except special tax levied to pay interest on the public debt due the State by said corporation and said assignees in bankruptcy,
125 although said revenue bond scrip has been duly tendered to said State officers in payment of said taxes by said Blue Ridge Railroad Company and said assignees in bankruptcy.

As Matter of Law.

I. That the act of the Legislature of the State of South Carolina, passed on the 2d day of March, 1872, was a lawful and constitutional act under the Constitution of the United States, and the revenue bond scrip therein directed to be issued by the State treasurer of South Carolina was issued by a lawful exercise of authority on the part of the said Legislature; and the revenue bond scrip is—so far as the present holders of said scrip, to wit, Edward B. Wesley and Amos D. Williams, and such other parties and corporations as appear by the proofs on file in this cause to have lawfully acquired the same are concerned—lawful and constitutional securities in the
126 hands of the holders thereof, and are not bills of credit within the purview of the Constitution of the United States.

II. That the said act of 2d March, 1872, was a valid and binding contract between the State of South Carolina and the different owners and holders of said revenue bond scrip, and bound the State of South Carolina, and the different State officers thereof, to do and perform the duties cast upon them by said act, to be performed in such manner as by the said statute is provided and directed.

III. That relying upon the faith of the provisions of said act of 2d March, 1872, and on the representations of the State treasurer of the State of South Carolina, and also of the president of the Blue Ridge Railroad Company, the complainant, Amos D. Williams, was induced to surrender four hundred and seventeen thousand dollars of bonds of the Blue Ridge Railroad Company, and to take in payment therefor one hundred and sixty-five thousand dollars of
127 said revenue bond scrip; and said Edward B. Wesley was also induced by said representations to advance in cash in the city of New York, in the latter part of March, 1872, three hundred and forty-four thousand and nine hundred and twenty-five dollars, and he received as security for said advances revenue bond scrip to the amount of one million and five thousand dollars. That with the money thus advanced the president of the Blue Ridge Railroad Company was enabled to redeem two million and nine hundred and two thousand dollars of bonds of the Blue Ridge Railroad Company then lying under pledge in Wall street, in the city of New York, having the guaranty of the State of South Carolina thereon. That this redemption enabled the president of the Blue Ridge Railroad Company to carry out to that

extent the provisions of the act of 2d March, 1872. That thereby the said Amos D. Williams was constituted a *bona fide* holder of one hundred and sixty-five thousand dollars of said revenue bond
128 scrip, and the Blue Ridge Railroad Company were constituted *bona fide* holders of one million and five thousand dollars of said revenue bond scrip, subject to the lien of said Edward B. Wesley for the sum of three hundred and forty-four thousand and nine hundred and twenty-five dollars, with interest thereon from March, 1872, upon payment of which sum, and the discharge of which lien, the equitable ownership of said revenue bond scrip is in the assignees in bankruptcy of said Blue Ridge Railroad Company.

IV. That the act of the 22d October, 1873, of the Legislature of the State of South Carolina, wherein they repealed the fourth section of the act of 2d March, 1872, and wherein they expressly forbade the comptroller general of the State of South Carolina to levy the tax provided for the redemption of said revenue bond scrip, and also the provisions of the act of the Legislature of the State of South Carolina, passed December 22d, 1873, wherein said Legislature forbade any State or county officer to receive said revenue bond
129 scrip in payment of such taxes as aforesaid, were each and every of them passed in violation of the contract entered into by and between the complainants and the State of South Carolina, and were and are respectively unconstitutional and void.

It is therefore ordered—

I. That it be referred to James E. Hagood, Esq., clerk of this court, as special master to take proof of the claims of all parties other than the said Amos D. Williams and Edward B. Wesley (whose claims are hereby adjudged as established), holding, or claiming to hold, any of said revenue bond scrip, *bona fide*, and for value, who may, on contributing *pro rata* to the expenses of such reference and this action, prove their claims. And that said special master do ascertain and report the total outstanding amount of such treasury certificates of indebtedness.

II. That for the purpose of defending itself the State of
130 South Carolina may, at its option, and in such manner as it may be advised to be proper be allowed upon the application of the attorney general of said State on its behalf, to be made a party to these proceedings.

III. That upon the ascertainment of the amount of said treasury certificates of indebtedness outstanding proper process do issue out of and under the seal of this court against the State treasurer of the State of South Carolina for the time being, and his successors in office, compelling and requiring him and them to perform the duties enjoined upon the incumbent of that office by the fourth section of the act of 2d March, 1872, to wit, to redeem the said treasury certificates of indebtedness; and compelling and requiring him and them to receive the same in payment of all taxes and other dues to the State, except the special tax levied to pay interest on the public debt; that proper process do issue out of and under the seal of this court
131 against the comptroller general of the State of South Carolina for

the time being, and his successors in office, compelling and requiring him and them to perform the duties enjoined upon that officer by the different sections of the act of 2d March, 1872, and compelling and requiring him from time to time to prepare and transmit to the several county auditors all such forms and instructions as may be proper and lawful for levying and collecting in the same manner as the annual taxes the taxes required by the fourth section of the act of 2d March, 1874; and that proper process do issue out of and under the seal of this court compelling and requiring the different county treasurers of the State of South Carolina for the time being, and their successors in office, to receive such treasury certificates of indebtedness in payment of all taxes due to the State of South Carolina, except the special tax levied to pay interest on the public debt. And in all cases where a tender of said treasury certificates of indebted-

132 ness is made and the same refused an injunction may issue restraining the county treasurer so refusing from selling property, or in any manner enforcing payment of said taxes.

IV. Any party to these suits may apply at the foot of this decree for further orders in the premises.

HUGH L. BOND,

May 15, 1882. *C't Judge.*

And on the 26th day of May, A. D. 1882, came into court the defendants, by their solicitor, LeRoy F. Youmans, attorney general of South Carolina, and obtained the following allowance of appeal; which allowance of appeal is in the words and tenor following:

Allowance of Appeal.

133 THE UNITED STATES OF AMERICA,
Fourth Circuit, District of South Carolina:

In the Circuit Court. In Equity.

JOHN P. SOUTHERN and JAMES P. LOW, Assignees of the Blue Ridge Railroad Company in South Carolina, Bankrupt, Complainants,

against

JOHNSON HAGOOD, Comptroller General of the State of South Carolina; R. S. PORCHER, County Treasurer of Oconee County, in the said State; and SAMUEL E. MOORE, County Treasurer of Anderson County, in the said State, Defendants.

The defendants in the above case pray that an appeal be allowed to the Supreme Court of the United States from the decree by the said circuit court herein made.

May 22, 1882. LEROY F. YOUMANS,
Att'y Gen'l of So. Ca., for Defendants.

134 And thereupon the appeal is allowed. Bond to be given in the sum of one thousand dollars in the usual form, with security to be approved by the judge of the dist. court.

HUGH L. BOND.

Acceptance of Service.

We accept the service of the within allowance of appeal.
23d Sept., 1882.

D. McMAHON,
JAS. H. RION,
T. S. CAVENDER,
Compl'ts Solicitors.
Per JAS. H. RION.

And on the 14th day of July, A. D. 1882, came into court the defendants by their solicitor, LeRoy F. Youmans, attorney-general of South Carolina, and filed the following appeal bond: which appeal bond is in the words and tenor following:

135 *Appeal Bond.*

THE UNITED STATES OF AMERICA,
Fourth Circuit, District of South Carolina:

In the Circuit Court. In Equity.

JOHN P. SOUTHERN and JAMES P. LOWE, Assignees of the Blue Ridge Railroad Company in South Carolina, Bankrupts, Complainants,

against

JOHNSON HAGOOD, Comptroller General of the State of South Carolina; R. S. PORCHER, County Treasurer of Oconee County in the said State, and SAMUEL E. MOORE, County Treasurer of Anderson County, in the said State, Defendants.

Know all men by these presents, that we, John Peter Richardson, as State treasurer of South Carolina; John Bratton, as comptroller general of South Carolina; Colin M. Smith, John T. Sloan, Jr., are held and firmly bound unto John P. Southern and James P.
136 Low, assignees of the Blue Ridge Railroad Company in South Carolina, bankrupts, in the sum of one thousand dollars, to be paid to the — John P. Southern and James P. Low, assignees of the Blue Ridge Railroad Company in South Carolina, bankrupts, their executors, administrators, or assigns, to which payment well and truly to be made we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals, and dated this tenth day of July, A. D. 1882.

Whereas the above-named defendants have prosecuted an appeal to the Supreme Court of the United States to reverse the decree in the above-entitled action rendered by the circuit court of the United States for the district of South Carolina in favor of the complainants:

Now, therefore, the condition of this obligation is such that if the above-named defendants shall prosecute their said appeal to effect, and answer all damages and costs if they fail to make their

137 plea good, then the above obligation to be void; otherwise to remain in full force and virtue.

J. P. RICHARDSON, [L. S.]
State Treas.
JNO. BRATTON, *C. G.* [L. S.]
C. M. SMITH. [L. S.]
JOHN T. SLOAN, JR. [L. S.]

Sealed and delivered in presence of—
WM. K. BACHMAN.

THE STATE OF SOUTH CAROLINA, *Richland County:*

Personally appeared before me, W. K. Bachman, notary public, C. M. Smith and John T. Sloan, Jr., who, on oath, say: That they are worth over and above their debts, liabilities, and homestead exemption, the first that he is worth over and above the aforesaid at least five thousand dollars, and the latter that he is worth over and above the aforesaid at least twenty thousand dollars.

C. M. SMITH.
JOHN T. SLOAN, JR.

Sworn to before me, July 10th, 1882.
[L. S.] WM. K. BACHMAN,
Notary Public.

138 *Approval of Appeal Bond.*

Approved: HUGH L. BOND, *Ct Judge.*

And on the 26th day of May, A. D. 1882, came into court the defendants, by their solicitor, LeRoy F. Youmans, attorney general of South Carolina, and obtained the following citation; which citation is in the words and tenor following:

Citation.

139 THE UNITED STATES OF AMERICA,
Fourth Circuit, District of South Carolina:

In the Circuit Court. In Equity.

By the Honorable Hugh L. Bond, one of the judges of the circuit court of the United States for the district of South Carolina, to John P. Southern and James P. Low, assignees of the Blue Ridge Railroad Company, in South Carolina, bankrupts:

Whereas Johnson Hagood, comptroller general of the State of South Carolina; R. S. Porcher, county treasurer of Oconee county, in the said State, and Samuel E. Moore, county treasurer of Anderson county, in the said State, have lately appealed to the Supreme Court of the United States from a decree lately rendered in the circuit court of the United States for the district of South Carolina, wherein they were defendants and you were complainants.

140 You, the said John P. Southern and James P. Low, assignees of the Blue Ridge Railroad Company, in South Carolina,

bankrupts, are therefore hereby cited to appear before the said Supreme Court, at the city of Washington, on the first Monday of October next, to do and receive what may appertain to justice to be done in the premises.

Given under my hand, at the city of Charleston, in the district of South Carolina, in the fourth circuit, this 22d day of May, A. D. 1882.

HUGH L. BOND, *C't Judge.*

141 [Endorsed:] We accept the service of the within citation. 23d Sept., 1882. D. McMahon, Jas. H. Rion, T. S. Cavender, comp's sol's, per Jas. H. Rion. U. S. of America, 4th circ't, dis't of So. Ca. In the circ't court. In equity. Jno. P. Southern and Jas. P. Low, assee's of B. R. R. Co., bankrupts, *v.* Johnson Hagood, comp. gen'l So. Ca., *et al.* Citation in appeal. Original. Filed May 26, 1882. J. E. Hagood, C. C. C. U. S., dist. S. C.

142 UNITED STATES OF AMERICA,
District of South Carolina, Fourth Circuit:

In the Circuit Court.

I, J. E. Hagood, clerk of said court, do hereby certify that the foregoing is a true and correct copy of the records and proceedings in the case of John P. Southern and James P. Low, assigneess of the Blue Ridge Railroad Company, in South Carolina, bankrupts, complainants against Johnson Hagood, comptroller general of the State of South Carolina; R. S. Porcher, county treasurer of Oconee county, in the said State, and Samuel E. Moore, county treasurer of Anderson county, in the said State, defendants, rendered as aforesaid, together with all things relating to the same, as appears by the records now on file in my office.

Given under my hand and seal of said court, at clerk's office, in the city of Charleston, S. C., this the 25th day of September, A. D. 1882.

[SEAL.] J. E. HAGOOD,
C. C. C. U. S., Dist. S. C.

Endorsed on cover: S. Carolina C. C. U. S. No. 380. Johnson Hagood, comptroller general of the State of South Carolina; R. S. Porcher, county treasurer of Oconee county, and Samuel E. Moore, county treasurer of Anderson county, appellants, *vs.* John P. Southern and James P. Low, assignees of the Blue Ridge R. R. Co., in South Carolina, a bankrupt. Filed 13th October, 1882.